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DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

28 CFR Part 0

8 CFR Parts 1001, 1003, and 1292

[EOIR Docket No. 18–0502; A.G. Order No. 4515–2019]

RIN 1125–AA85

Organization of the Executive Office for Immigration Review

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: Interim rule; request for comment.

SUMMARY: This interim rule amends the regulations related to the internal organization of the Executive Office for Immigration Review (''EOIR''). This interim rule reflects changes related to the establishment of an Office of Policy within EOIR in 2017, and makes related clarifications or changes to the organizational role of EOIR's Office of the General Counsel (''OGC'') and Office of Legal Access Programs (''OLAP''). This interim rule further updates the Department of Justice (''Department'') organizational regulations to synchronize them with EOIR's regulations, makes nomenclature changes to the titles of the members of the Board of Immigration Appeals (''BIA'' or ''Board''), and provides for a further delegation of authority from the Attorney General to the EOIR Director (''Director'') regarding the efficient disposition of appeals. This interim rule also clarifies the Director's authority to adjudicate cases following changes to EOIR's Recognition and Accreditation Program (''R&A Program'') in 2017.

DATES: This rule is effective August 26, 2019.

Written or electronic comments must be submitted on or before October 25, 2019. Written comments postmarked on or before that date will be considered timely. The electronic Federal Docket Management System will accept comments until midnight eastern standard time at the end of that day.

ADDRESSES: Please submit written comments to Lauren Alder Reid, Assistant Director, Office of Policy, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2616, Falls Church, VA 22041, Contact Telephone Number (703) 305–0289 (not a toll-free call). To ensure proper handling, please reference RIN No. 1125–AA85 or EOIR Docket No. 18–0502 on your correspondence. You may submit comments electronically or view an electronic version of this interim rule at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Lauren Alder Reid, Assistant Director, Office of Policy, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2616, Falls Church, VA 22041, Contact Telephone Number (703) 305–0289 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

I. Background

EOIR is a component of the Department with the primary mission of adjudicating immigration cases by fairly, expeditiously, and uniformly interpreting and administering the Nation's immigration laws, primarily pursuant to the Immigration and Nationality Act (''INA''). Under delegated authority from the Attorney General, EOIR conducts immigration court proceedings, appellate reviews, and administrative hearings. The Director exercises delegated authority from the Attorney General in managing the operations of EOIR. *See* 8 CFR 1003.0(a), (b). In 2007, the Department finalized regulations delegating certain authorities from the Attorney General to the Director regarding the management of EOIR in an effort to improve ''the workings of the immigration hearing process before the immigration judges and the Board.'' 72 FR 53673, 53673 (Sept. 20, 2007).

Prior to 2017, EOIR contained eight components on its official organization chart approved by the Attorney General. Three of the listed components are adjudicatory: The Office of the Chief Immigration Judge, which is responsible for managing the immigration courts where immigration judges adjudicate individual cases; the BIA, which primarily conducts appellate reviews of immigration judge decisions; and the Office of the Chief Administrative Hearing Officer (''OCAHO''), which adjudicates immigration-related employment cases, discrimination cases, and document fraud cases pursuant to 8 U.S.C. 1324a, 1324b, and 1324c. Three of the listed components are non-adjudicatory: OGC; the Office of Administration; and the Office of Information Technology. The remaining two components are the Office of the Director and the Office of the Deputy Director.

EOIR also contains four offices or divisions that are located within the Office of the Director and, thus, do not appear on its official organization chart approved by the Attorney General. *See https://www.justice.gov/eoir/eoir-organization-chart/chart.* One of those offices is OLAP, which administers legal orientation programs for aliens in immigration proceedings and for custodians of unaccompanied alien children and helps administer the National Qualified Representative Program as part of EOIR's Nationwide Policy regarding procedural protections for detained aliens who may have competency issues in immigration proceedings.[1] OLAP, formerly known as the Legal Orientation and Pro Bono Program, was established in 2000 as part of the Office of the Director. In 2002, it was moved from the Office of the Director to OGC, and, in 2009, it was moved from OGC to the BIA. In 2011, it was moved back to the Office of the Director. As of 2017, OLAP also administers EOIR's R&A Program, which authorizes representatives of non-profit religious, charitable, social service, or similar organizations to represent persons in immigration proceedings before EOIR and in cases with the Department of Homeland Security (''DHS''). *See* 81 FR 92346 (Dec. 19, 2016). Prior to 2017, the R&A Program was administered by the BIA.

Apart from EOIR's specific regulations in 8 CFR chapter V, the Department maintains organizational regulations for EOIR in 28 CFR part 0, subpart U. Over

[1] The other three offices are the Office of the Ombuds, the Equal Employment Opportunity Office, and the Planning, Analysis, and Statistics Division, which exercise responsibilities applicable to all components currently listed on EOIR's organizational chart.

the years, however, those regulations have not been updated to maintain consistency with EOIR's specific regulations in title 8.

Regarding the BIA, the Attorney General has delegated authority to the BIA to adjudicate specified categories of appeals, primarily from immigration judge decisions in removal proceedings. 8 CFR 1003.1(b).[2] In both substance and practice, Board members function as appellate immigration judges. In 2000, the Department acknowledged the role of Board members as appellate immigration judges, though it declined to change their titles in 2007 due to possible confusion among the public. *See* 65 FR 81434 (Dec. 26, 2000); 72 FR at 53673–74.

The Attorney General has also required the BIA Chairman to establish a case management system to ensure the efficient adjudication of appeals. 8 CFR 1003.1(e). With limited exceptions, appeals assigned to a single Board member shall be adjudicated within 90 days of the completion of the record, and appeals assigned to a three-member panel shall be completed within 180 days after assignment. 8 CFR 1003.1(e)(8)(i). Appeals that are not completed within the relevant time limits and that are not subject to an exception shall be assigned by the Chairman to either himself or a Vice Chairman for final decision within 14 days, or the Chairman shall refer them to the Attorney General. 8 CFR 1003.1(e)(8)(ii).

The Director has no authority to adjudicate specific cases under the INA or to direct the adjudication of specific cases under the INA. 8 CFR 1003.0(c). In 2017, however, the Director was given authority under 8 CFR 1292.18 to adjudicate requests for review of three types of reconsideration decisions related to EOIR's R&A Program, but 8 CFR 1003.0(c) was not updated to reflect this authority.

II. Summary of Regulatory Changes

In a 2017 reorganization, the Attorney General approved the addition of the Office of Policy within EOIR. The Department of Justice is now amending EOIR's regulations to reflect the establishment of this new component.

This interim rule with request for comment (''interim rule'' or ''rule'') outlines the functions and roles of the Office of Policy, similar to how the functions of other EOIR components are outlined in the regulations. This rule also delineates and clarifies the functions of the Office of Policy and OGC within EOIR. Finally, because EOIR has determined that there is no need for OLAP to remain in the Office of the Director, this rule transfers OLAP's responsibilities to a division in the Office of Policy and removes references in the regulations to OLAP and the OLAP Director, effectively moving OLAP to the Office of Policy.

In addition, this rule updates the Department's general organizational regulations in 28 CFR part 0, subpart U, to be consistent with EOIR's current organizational structure outlined in 8 CFR part 1003, changes the titles of members of the BIA to better reflect the nature of their adjudicatory responsibilities, and delegates authority from the Attorney General to the Director in situations in which appeals pending before the BIA have not been timely resolved in order to allow more practical flexibility in efficiently deciding appeals. This rule also resolves tension between the limitation in 8 CFR 1003.0(c) on the Director's authority to adjudicate or to direct the adjudication of specific cases under the INA, and 8 CFR 1292.18 regarding the Director's authority to adjudicate requests for review arising under the regulations in the context of the R&A Program, along with any similar tension that would otherwise arise regarding the Director's new authority to adjudicate appeals that have not been timely resolved by the BIA.

III. Analysis of Interim Rule

A. Office of Policy and Office of the General Counsel

The Office of Policy was established in 2017 to assist in effectuating authorities given to the Director in 8 CFR 1003.0(b)(1), including the authority to, *inter alia,* issue operational instructions and policy, administratively coordinate with other agencies, and provide for training to promote quality and consistency in adjudications. The Office of Policy both improves efficiency by reducing redundant activities performed by multiple components and ensures consistency and coordination of legal and policy activities across multiple components within EOIR. To that end, this rule delineates the various functions that the Office of Policy performs.

In delineating the functions performed by the Office of Policy, this rule also distinguishes those functions from activities performed by OGC, thereby clarifying the scope of OGC's authority. Currently, OGC oversees multiple EOIR programs, including those related to employee discipline, ethics, anti-fraud efforts, practitioner discipline, privacy, Freedom of Information Act requests, litigation support, and regulatory development and review. As these programs have expanded commensurate with the national salience of immigration issues in recent years, this change has challenged OGC's ability to devote sufficient resources to all of the programs within its purview. Moreover, some of the programs currently under OGC, such as regulatory development and review, involve a substantial policy role. Consequently, the rule transfers some of OGC's current programs to the Office of Policy to ensure sufficient resources for those programs and to more appropriately align those programs with their policymaking character.

The General Counsel, under the supervision of the Director, serves as the chief legal counsel of EOIR, including to the Chairman of the BIA, the Chief Immigration Judge, and the Chief Administrative Hearing Officer on matters of immigration law. 8 CFR 1003.0(e). The current regulation does not exclude advising on issues related to the general adjudication of immigration cases, although it does provide that the General Counsel shall not supervise legal activities related to specific adjudications. *See id.* This delineation of the General Counsel's responsibilities has created confusion as many activities that OGC currently performs—ranging from advice on the discipline of immigration judges to advice regarding litigation positions to advice on policy—may relate directly or indirectly to the adjudication of specific cases, creating tension with the existing regulation. For example, as the chief legal counsel for EOIR, including its adjudicatory components, the General Counsel may take a position on immigration law through the complaint process involving an adjudicator's decision that is arguably neither the best nor only view of the law, leaving EOIR's adjudicators uncertain as to whose view to follow in order to adjudicate cases without risk of potential discipline or corrective action. Accordingly, the rule explains that the General Counsel, subject to the supervision of the Director, remains the chief legal counsel and supervisor of legal activities related to specific categories of issues, but expressly provides that the General Counsel does not have authority to influence the adjudication of specific cases under the INA, including as an advisor on disciplinary matters related to the adjudication of cases under the

[2] The BIA also hears appeals from decisions by immigration judges in custody proceedings, among other matters, and from decisions by DHS adjudicators involving certain visa petitions and civil fine matters.

INA. It also explains that the General Counsel may continue to advise on matters of immigration law, provided that the advice does not direct or influence specific adjudications under the Act.

B. Office of Legal Access Programs

On October 1, 2015, as part of revisions to its R&A Program, EOIR issued a proposed rule to formalize the structure of OLAP under the supervision of the Director. *See* 80 FR 59514 (Oct. 1, 2015). That rule was finalized on December 19, 2016, and went into effect on January 18, 2017. *See* 81 FR 92346. Although OLAP was established in EOIR's regulations in 8 CFR 1003.0(f), it was not established in the Department of Justice's organizational regulations for EOIR in 28 CFR part 0, subpart U. Additionally, although it was identified in the regulations, it did not appear on any official EOIR organizational chart approved by the Attorney General. *See https://www.justice.gov/eoir/eoir-organization-chart/chart.* OLAP has been transferred multiple times among different EOIR components since 2000, and no justification was provided in either the proposed rule or the final rule regarding why OLAP should be codified as an entity within EOIR reporting directly to the Director. Overall, its structural position within EOIR is anomalous.

The interim rule transfers OLAP's responsibilities to a division in the Office of Policy and removes references in the regulations to OLAP and the OLAP Director, effectively moving OLAP to the Office of Policy. EOIR has determined that there is no organizational justification for OLAP to remain in the Office of the Director. Instead, OLAP and its functions most appropriately belong in the Office of Policy, which can help coordinate OLAP's work across adjudicatory components. Further, locating OLAP within EOIR's principal policy component is consistent with OLAP's role in effectuating EOIR's Nationwide Policy regarding procedural protections for detained aliens who may be deemed incompetent. This move ensures an appropriate chain of command and better management of OLAP's programs, provides for better coordination of OLAP's functions within the broader scope of EOIR's adjudicatory operations, and allows for greater flexibility in the future regarding OLAP's mission, which has expanded significantly in recent years. This rule is not intended to change—and does not have the effect of changing—any of OLAP's current functions.

C. The Department's Organizational Regulations

Apart from EOIR's specific regulations in 8 CFR chapter V, the Department of Justice maintains organizational regulations for EOIR in 28 CFR part 0, subpart U. Over the years, those regulations have not been updated to maintain consistency with EOIR's specific regulations in title 8, leading to some inconsistencies. For example, the Department's organizational regulations differ from EOIR's regulation as to the composition of the Board. *Compare* 8 CFR 1003.1(a)(1), (2), *with* 28 CFR 0.116. Moreover, the Department's regulation for OCAHO has not been updated to reflect OCAHO's jurisdiction over cases arising under 8 U.S.C. 1324c. *Compare* 28 CFR 68.1, *with* 28 CFR 0.118. Further, although EOIR's regulations provide for the delegation of authority from the Director to the General Counsel or any other EOIR employee, the Department's regulations do not mention the General Counsel or other EOIR employees at all. *Compare* 8 CFR 1003.0(b)(2), (e), *with* 28 CFR 0.115(b).

This rule eliminates the inconsistencies between the EOIR-related regulations in title 8 and title 28, reduces the likelihood of future inconsistencies by accounting for the possibility of future changes in title 8, updates outdated regulatory citations,[3] and harmonizes the two sets of regulations related to EOIR's structure, including by adding references to both OGC and the new Office of Policy in title 28.

D. The Board of Immigration Appeals

This rule provides that members of the Board shall also be known as ''Appellate Immigration Judges'' in order to more accurately reflect their adjudicatory functions. The Department has previously considered changing the title of Board members to ''Appellate Immigration Judges'' by regulation, but elected not to because of possible confusion by the public with federal appellate judges appointed under Article III of the Constitution. *See* 65 FR at 81434; 72 FR at 53673–74. The Department has now determined, however, that it is appropriate to incorporate this title to better reflect the role of Board members in adjudicating cases that come before them as designated by the Attorney General. The importance of more accurately representing the role of Board members outweighs any potential confusion, which the Department does not anticipate to be significant given the public salience of immigration-related adjudication in recent years.

Additionally, this rule reflects a further delegation of authority from the Attorney General regarding the efficient disposition of BIA cases on appeal. The BIA Chairman has established a case management system to ensure the efficient adjudication of appeals. *See* 8 CFR 1003.1(e). With limited exceptions, appeals assigned to a single Board member shall be adjudicated within 90 days of the completion of the record, and appeals assigned to a three-member panel shall be completed within 180 days after assignment. 8 CFR 1003.1(e)(8)(i). For appeals that are not completed within the relevant time limits and that are not subject to an exception, the Chairman shall assign them to either himself or a Vice Chairman for completion within 14 days, or the Chairman shall refer them to the Attorney General. 8 CFR 1003.1(e)(8)(ii). Due to his numerous other responsibilities and obligations, the Attorney General is not in a position to adjudicate any BIA appeal simply because it has exceeded its time limit for adjudication. Further, it is operationally anomalous for the Chairman, who is under the supervision of the Director, to be able to directly refer a case to the Attorney General based solely on a workload management issue, rather than on the underlying merits of the case. As the supervisor of the Chairman and already possessing the authority to ensure that adjudications are conducted in a timely manner, *see* 8 CFR 1003.0(b)(1)(ii), the Director is in a better position to address cases that cannot be completed in a timely fashion by the BIA. The Director is also in a direct position to implement changes to ensure that untimely adjudications remain relatively rare. Accordingly, this rule delegates authority from the Attorney General to the Director to adjudicate BIA cases that

[3] On November 25, 2002, the President signed into law the Homeland Security Act of 2002 (''HSA''), creating the new DHS and transferring the functions of the former Immigration and Naturalization Service (''INS'') to DHS. Public Law 107–296, tit. IV, subtitles D, E, F, 116 Stat. 2135, 2192 (Nov. 25, 2002) (effective March 1, 2003). Under the HAS, the Attorney General retained the functions of EOIR in the Department. HSA sec. 1101, 6 U.S.C. 521; INA sec. 103(g), 8 U.S.C. 1103(g). In order to implement the transfer of the functions of the former INS (now within DHS), the Attorney General reorganized title 8 of the Code of Federal Regulations and divided the regulations into chapters, so that chapter I contains regulations relating to the functions of the former INS and chapter V contains regulations relating to the functions of EOIR. *See* 68 FR 9824 (Feb. 28, 2003); *see also* 68 FR 10349 (March 5, 2003). The regulations governing proceedings before EOIR are now contained in 8 CFR chapter V, beginning with part 1001. Accordingly, outdated references in title 28, CFR, to pre-reorganizational regulations are corrected with this rule.

have otherwise not been adjudicated in a timely manner under the regulations, based on a referral from the Chairman. The rule retains the ability of EOIR to refer such cases to the Attorney General, but only through the Director, consistent with standard management principles of the elevation of workload and performance issues.

E. The EOIR Director

In 2017, responsibility for the R&A Program within EOIR was transferred from the BIA to OLAP. *See* 81 FR 92346. Following that transfer, the OLAP Director adjudicates initial applications for recognition or accreditation, adjudicates requests for renewal of recognition or accreditation, makes determinations on administrative termination of recognition or accreditation, and adjudicates requests for reconsideration of any of these decisions. 8 CFR 1292.13, 1292.16, 1292.17. The Director adjudicates requests to review the reconsideration decisions of the OLAP Director. 8 CFR 1292.18.

The Director's authority to adjudicate requests to review certain reconsideration decisions of the OLAP Director under 8 CFR 1292.18 is in tension with the current language of 8 CFR 1003.0(c), which otherwise precludes the Director from adjudicating cases arising under the INA or regulations. The tension between these two regulations was an oversight in the transfer of the R&A Program. Consequently, this rule revises 8 CFR 1003.0(c) to clarify that the Director continues to be precluded from adjudicating cases or directing the results of certain adjudications, unless authorized to do so by another regulation or otherwise designated or delegated authority by the Attorney General to do so. The revision does not alter the Director's existing authority under 8 CFR 1292.18, and will simultaneously avoid any similar tension that would otherwise arise regarding the Director's new authority to adjudicate appeals that have not been timely resolved by the BIA.[4]

IV. Public Comments

The interim rule is an internal delegation of authority and assignment of responsibility, along with a change in nomenclature, and is thus a rule of management or personnel; it further relates to a matter of agency organization, procedure, or practice. *See* 5 U.S.C. 553(a)(2), (b)(A). Accordingly, the interim rule is exempt from the usual requirements of prior notice and comment and a 30-day delay in effective date. An internal delegation of administrative authority does not adversely affect members of the public and involves an agency management decision that is exempt from the notice-and-comment rulemaking procedures of the Administrative Procedure Act (''APA''). *See United States* v. *Saunders,* 951 F.2d 1065, 1068 (9th Cir. 1991) (delegations of authority have ''no legal impact on, or significance for, the general public,'' and ''simply effect[] a shifting of responsibilities wholly internal to the Treasury Department''); *Lonsdale* v. *United States,* 919 F.2d 1440, 1446 (10th Cir. 1990) (''APA does not require publication of [rules] which internally delegate authority to enforce the Internal Revenue laws''); *United States* v. *Goodman,* 605 F.2d 870, 887–88 (5th Cir. 1979) (unpublished delegation of authority from Attorney General to Acting Administrator of the Drug Enforcement Agency did not violate APA); *Hogg* v. *United States,* 428 F.2d 274, 280 (6th Cir. 1970) (where taxpayer would not be adversely affected by the internal delegations of authority from the Attorney General, APA does not require publication).

The Department is nonetheless promulgating this rule as an interim rule, providing the public with opportunity for post-promulgation comment before the Department issues a final rule on these matters. Written comments must be received on or before October 25, 2019.

V. Regulatory Requirements

A. Administrative Procedure Act

As noted in section IV of this preamble, this interim rule is a rule of management or personnel as well as a rule of agency organization, procedure, or practice, and is exempt from the requirements for notice-and-comment rulemaking and a 30-day delay in effective date. *See* 5 U.S.C. 553(a)(2), (b)(A).

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (''RFA''), ''[w]henever an agency is required by section 553 of [the APA], or any other law, to publish general notice of proposed rulemaking for any proposed rule, . . . the agency shall prepare and make available for public comment an initial regulatory flexibility analysis.'' 5 U.S.C. 603(a); *see also* 5 U.S.C. 604(a). Such analysis is not required when a rule is exempt from notice-and-comment rulemaking under 5 U.S.C. 553(b). Because this is a rule of internal agency organization and therefore is exempt from notice-and-comment rulemaking, no RFA analysis under 5 U.S.C. 603 or 604 is required for this rule.

C. Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

D. Executive Orders 12866 (Regulatory Planning and Review), 13563 (Improving Regulation and Regulatory Review), and 13771 (Reducing Regulation and Controlling Regulatory Costs)

This rule is limited to agency organization, management, or personnel matters and is therefore not subject to review by the Office of Management and Budget pursuant to section 3(d)(3) of Executive Order 12866. Further, because this rule is one of internal organization, management, or personnel, it is not subject to the requirements of Executive Orders 13563 or 13771.

E. Executive Order 13132 (Federalism)

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

F. Executive Order 12988 (Civil Justice Reform)

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

G. Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this rule because there are no new or revised recordkeeping or reporting requirements.

[4] This rule also corrects a regulatory oversight by reiterating that the Director may provide for appropriate administrative coordination with the Department of Health and Human Services (''HHS'') in addition to the other entities listed in 8 CFR 1003.0(b)(1)(iii). Such coordination is already provided for by statute, 8 U.S.C. 1232, and the exclusion of HHS from this list was inadvertent.

H. Congressional Review Act

This is not a major rule as defined by 5 U.S.C. 804(2). This action pertains to agency management or personnel and is a rule of agency organization that does not substantially affect the rights or obligations of non-agency parties. Accordingly, it is not a ''rule'' as that term is used in 5 U.S.C. 804(3). Therefore, the reports to Congress and the Government Accountability Office specified by 5 U.S.C. 801 are not required.

List of Subjects

8 CFR Part 1001

Administrative practice and procedure, Immigration.

8 CFR Part 1003

Administrative practice and procedure, Aliens, Immigration, Legal services, Organization and functions (Government agencies).

8 CFR Part 1292

Administrative practice and procedure, Immigration, Lawyers, Reporting and recordkeeping requirements.

28 CFR Part 0

Authority delegations (Government agencies), Government employees, Organization and functions (Government agencies), Privacy, Reporting and recordkeeping requirements, Whistleblowing.

Accordingly, for the reasons set forth in the preamble, the Attorney General is amending parts 1001, 1003, and 1292 of title 8 of the Code of Federal Regulations and part 0 of title 28 of the Code of Federal Regulations as follows:

Title 8 of the Code of Federal Regulations

PART 1001—DEFINITIONS

■ 1. The authority citation for part 1001 continues to read as follows:

Authority: 5 U.S.C. 301; 8 U.S.C. 1101, 1103; Pub. L. 107–296, 116 Stat. 2135; Title VII of Pub. L. 110–229.

§ 1001.1 [Amended]

■ 2. Section 1001.1 is amended by removing and reserving paragraphs (x) and (y).

PART 1003—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

■ 3. The authority citation for part 1003 continues to read as follows:

Authority: 5 U.S.C. 301; 6 U.S.C. 521; 8 U.S.C. 1101, 1103, 1154, 1155, 1158, 1182, 1226, 1229, 1229a, 1229b, 1229c, 1231, 1254a, 1255, 1324d, 1330, 1361, 1362; 28 U.S.C. 509, 510, 1746; sec. 2 Reorg. Plan No. 2 of 1950; 3 CFR, 1949–1953 Comp., p. 1002; section 203 of Pub. L. 105–100, 111 Stat. 2196–200; sections 1506 and 1510 of Pub. L. 106–386, 114 Stat. 1527–29, 1531–32; section 1505 of Pub. L. 106–554, 114 Stat. 2763A–326 to -328.

■ 4. Section 1003.0 is amended by:
■ a. Revising paragraphs (a), (b)(1) introductory text, (b)(1)(iii), (b)(2), and (c);
■ b. Revising the first sentence of paragraph (d);
■ c. Removing paragraph (f);
■ d. Redesignating paragraph (e) as paragraph (f);
■ e. Adding a new paragraph (e); and
■ f. Revising newly redesignated paragraphs (f) introductory text and (f)(1).

The revisions and addition read as follows:

§ 1003.0 Executive Office for Immigration Review.

(a) *Organization.* Within the Department of Justice, there shall be an Executive Office for Immigration Review (EOIR), headed by a Director who is appointed by the Attorney General. The Director shall be assisted by a Deputy Director and the heads of EOIR's other components, who shall report to the Director and Deputy Director. EOIR shall include the Board of Immigration Appeals, the Office of the Chief Immigration Judge, the Office of the Chief Administrative Hearing Officer, the Office of Policy, the Office of the General Counsel, and such other components and staff as the Attorney General or the Director may provide.

(b) * * *

(1) *In general.* The Director shall manage EOIR and its employees and shall be responsible for the direction and supervision of each EOIR component in the execution of its respective duties pursuant to the Act and the provisions of this chapter. Unless otherwise provided by the Attorney General, the Director shall report to the Deputy Attorney General and the Attorney General. The Director shall have the authority to:

* * * * *

(iii) Provide for appropriate administrative coordination with the other components of the Department of Justice, with the Department of Homeland Security, with the Department of Health and Human Services, and with the Department of State;

* * * * *

(2) *Delegations.* The Director may delegate the authority given to him by this part or otherwise by the Attorney General to the Deputy Director, the Chairman of the Board of Immigration Appeals, the Chief Immigration Judge, the Chief Administrative Hearing Officer, the Assistant Director for Policy, the General Counsel, or any other EOIR employee.

(c) *Limit on the authority of the Director.* Except as provided by statute, regulation, or delegation of authority from the Attorney General, or when acting as a designee of the Attorney General, the Director shall have no authority to adjudicate cases arising under the Act or regulations or to direct the result of an adjudication assigned to the Board, an immigration judge, the Chief Administrative Hearing Officer, or an Administrative Law Judge. Nothing in this part, however, shall be construed to limit the authority of the Director under paragraphs (a) or (b) of this section.

(d) *Deputy Director.* The Deputy Director shall advise and assist the Director in the supervision and management of EOIR and the formulation of policy and guidelines.

* * *

(e) *Office of Policy.* Within EOIR, there shall be an Office of Policy consisting of an Assistant Director for Policy and other such staff as the Director deems necessary. Subject to the supervision of the Director, the Office of Policy shall provide assistance to the Director and heads of the other components within EOIR.

(1) *In general.* In coordination with the Director and subject to the Director's supervision, the Assistant Director for Policy shall supervise all policy activities of EOIR. Subject to the supervision of the Director and in coordination with other components as appropriate, the Assistant Director for Policy shall also oversee EOIR's regulatory development and implementation process, shall supervise and coordinate EOIR's internal development, dissemination, and implementation of policy guidance, shall supervise and administer EOIR's *pro bono* and legal orientation program activities, shall supervise the provision of legal and policy training to all components within EOIR on all relevant matters under its supervision, and shall perform other such duties or exercise other such authorities as the Director may provide.

(2) *Limit on the Authority of the Assistant Director for Policy.* The Assistant Director for Policy shall have no authority to adjudicate cases arising under the Act or regulations, except under paragraph (e)(3) of this section, and shall not direct the result of an adjudication assigned to the Board, an

immigration judge, the Chief Administrative Hearing Officer, or an Administrative Law Judge; provided, however, that nothing in this part shall be construed to limit the authority of the Assistant Director for Policy under paragraph (e)(1) of this section.

(3) *Recognition and accreditation.* The Assistant Director for Policy, in consultation with the Director, shall maintain a division within the Office of Policy to develop and administer a program to recognize organizations and accredit representatives to provide representation before the Immigration Courts, the Board, and DHS, or DHS alone. The Assistant Director for Policy shall determine whether an organization and its representatives meet the eligibility requirements for recognition and accreditation in accordance with this chapter. The Assistant Director for Policy shall also have the authority to administratively terminate the recognition of an organization and the accreditation of a representative and to maintain the roster of recognized organizations and their accredited representatives. The Assistant Director for Policy, in consultation with the Director, may also delegate authority established in 8 CFR 1292.6 and 8 CFR 1292.11 through 1292.20 within the Office of Policy.

(f) *General Counsel.* Subject to the supervision of the Director, the General Counsel shall serve as the chief legal counsel of EOIR on matters of ethics, records management, release of information pursuant to the Freedom of Information Act, employee performance and discipline (except in matters related to the discipline of adjudicators for decisions made in the adjudication of cases under the Act), practitioner discipline, and other related areas not inconsistent with the law. Subject to the supervision of the Director, the General Counsel shall supervise all legal activities and provide legal advice and assistance to the Director, Deputy Director, and other component heads in accordance with this section. In consultation with other EOIR components as appropriate, the General Counsel may also advise the Director or Deputy Director on other legal matters, including matters related to immigration law or policy and related to adjudicator discipline, provided that the General Counsel shall have no authority, directly or indirectly, to direct or influence the adjudication of any cases under the Act.

(1) *Professional standards.* The General Counsel shall administer programs to protect the integrity of legal representation in immigration proceedings before EOIR, including administering the disciplinary program for practitioners and recognized organizations under subpart G of this part.

* * * * *

■ 5. Section 1003.1 is amended by adding a sentence to the end of paragraphs (a)(1), (a)(2) introductory text, and (a)(4) and revising paragraph (e)(8)(ii) to read as follows:

§ 1003.1 Organization, jurisdiction, and powers of the Board of Immigration Appeals.

(a)(1) * * * The Board members shall also be known as Appellate Immigration Judges.

(2) * * * The Chairman of the Board of Immigration Appeals shall also be known as the Chief Appellate Immigration Judge, and a Vice Chairman of the Board of Immigration Appeals shall also be known as a Deputy Chief Appellate Immigration Judge.

* * * * *

(4) * * * Temporary Board members shall also be known as temporary Appellate Immigration Judges.

* * * * *

(e) * * *

(8) * * *

(ii) In exigent circumstances, the Chairman may grant an extension in particular cases of up to 60 days as a matter of discretion. Except as provided in paragraph (e)(8)(iii) or (iv) of this section, in those cases where the panel is unable to issue a decision within the established time limits, as extended, the Chairman shall either assign the case to himself or a Vice Chairman for final decision within 14 days or shall refer the case to the Director for decision. If a dissenting or concurring panel member fails to complete his or her opinion by the end of the extension period, the decision of the majority will be issued without the separate opinion. For a case referred to the Director under this paragraph, the Director shall exercise delegated authority from the Attorney General identical to that of the Board as described in this section, including the authority to issue a precedent decision and the authority to refer the case to the Attorney General for review, either on his own or at the direction of the Attorney General.

* * * * *

§ 1003.108 [Amended]

■ 6. Section 1003.108 is amended in paragraphs (a)(3) and (b) by removing the phrase ''OLAP Director'' and adding in its place ''Assistant Director for Policy (or the Assistant Director for Policy's delegate)''.

PART 1292—REPRESENTATION AND APPEARANCES

■ 7. The authority citation for part 1292 continues to read as follows:

Authority: 8 U.S.C. 1103, 1362.

§§ 1292.6, 1292.11, 1292.12, 1292.13, 1292.14, 1292.15, 1292.16, 1292.17, 1292.18, 1292.19, 1292.20 [Amended]

■ 8. Sections 1292.6, 1292.11, 1292.12, 1292.13, 1292.14, 1292.15, 1292.16, 1292.17, 1292.18, 1292.19, and 1292.20 are each amended by removing the words ''OLAP Director'' each place that they appear and adding in their place the words ''Assistant Director for Policy (or the Assistant Director for Policy's delegate)''.

§§ 1292.11, 1292.12, 1292.13, 1292.15, 1292.16, 1292.17 [Amended]

■ 9. Sections 1292.11, 1292.12, 1292.13, 1292.15, 1292.16, and 1292.17 are each amended by removing the words ''OLAP Director's'' each place that they appear and adding in their place the words ''Assistant Director for Policy's (or the Assistant Director for Policy's delegate's)''.

§§ 1292.13, 1292.14, 1292.15, 1292.16, 1292.17, 1292.18 [Amended]

■ 10. Sections 1292.13, 1292.14, 1292.15, 1292.16, 1292.17, and 1292.18 are each amended by removing the term ''OLAP'' each place that it appears and adding in its place the words ''the Office of Policy''.

Title 28 of the Code of Federal Regulations

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

■ 11. The authority citation for part 0 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

■ 12. Sections 0.115 through 0.118 are revised to read as follows:

Sec.

* * * * *

0.115 General functions.
0.116 Board of Immigration Appeals.
0.117 Office of the Chief Immigration Judge.
0.118 Office of the Chief Administrative Hearing Officer.

* * * * *

§ 0.115 General functions.

(a) The Executive Office for Immigration Review shall be headed by a Director who is appointed by the Attorney General. The Director shall be assisted by a Deputy Director and the heads of EOIR's other components, who shall report to the Director and Deputy Director. EOIR shall include the Board

of Immigration Appeals, the Office of the Chief Immigration Judge, the Office of the Chief Administrative Hearing Officer, the Office of Policy, the Office of the General Counsel, and such other components and staff as the Attorney General or the Director may provide.

(b) The Director may redelegate the authority delegated to him by the Attorney General, subject to the provisions of 8 CFR 1003.0, to the Deputy Director, the Chairman of the Board of Immigration Appeals, the Chief Immigration Judge, the Chief Administrative Hearing Officer, the Assistant Director for Policy, the General Counsel, or any other EOIR employee.

§ 0.116 Board of Immigration Appeals.

The membership of the Board of Immigration Appeals shall be established in accordance with 8 CFR 1003.1. The Chairman of the Board of Immigration Appeals, who shall also be known as the Chief Appellate Immigration Judge, shall be responsible for providing supervision and establishing internal operating procedures of the Board in the exercise of its authorities and responsibilities as delineated in 8 CFR 1003.1 through 1003.8.

§ 0.117 Office of the Chief Immigration Judge.

The Chief Immigration Judge shall provide general supervision to the immigration judges in performance of their duties in accordance with the Immigration and Nationality Act and 8 CFR 1003.9.

§ 0.118 Office of the Chief Administrative Hearing Officer.

The Chief Administrative Hearing Officer shall provide general supervision to the Administrative Law Judges in performance of their duties in accordance with 8 U.S.C. 1324a, 1324b, and 1324c, and carry out any other responsibilities as provided by law, including the authority to review decisions as provided in 28 CFR part 68.

Dated: August 19, 2019.

William P. Barr,

Attorney General.

[FR Doc. 2019–18196 Filed 8–23–19; 8:45 am]

BILLING CODE 4410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2007–1092; MI–87–1; EPA–R05–OAR–2018–0121; FRL–9998–75–Region 5]

Air Plan Approval; Michigan; Ohio; Corrections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correcting amendment.

SUMMARY: This action corrects codification errors in the Michigan State Implementation Plan (SIP) for changes to the Permit to Install requirements of Part 2 and the Emission Limitations and Prohibitions found in the Part 9 rules of the Michigan Administrative Code. This action also corrects a codification error in the Ohio SIP for changes to the Ohio air permitting rules at Ohio Administrative Code (OAC) 3745–31.

DATES: This final rule is effective on August 26, 2019.

FOR FURTHER INFORMATION CONTACT: Christos Panos, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8328, *panos.christos@epa.gov.*

SUPPLEMENTARY INFORMATION: On separate occasions, the Environmental Protection Agency (EPA) made inadvertent codification errors when it approved revisions to Michigan's and Ohio's SIP. The first of these took place on September 6, 2006 (71 FR 52467). At that time, EPA approved revisions to the format of materials submitted by the state of Michigan that are incorporated by reference (IBR) into its SIP and amended the list of EPA-approved Michigan regulations at 40 CFR 52. 1170(c), which included Michigan's Part 9 rules. In the final rule published in the **Federal Register** on September 6, 2006 (71 FR 52467, on page 52475, EPA mistakenly listed the Part 9 rules with a prefix of R 339 instead of R 336. The prefix was subsequently corrected for R 336.1912 on October 26, 2007 (72 FR 60783) on page 60786, and for R 336.1902 on June 29, 2018 (83 FR 30571) on page 30573. This document corrects the prefix for the remaining Part 9 rules cited in 40 CFR 52.1170(c) as R 339.1906, R 339.1910, R 339.1911, R 339.1915, R 339.1916, and R 339.1930 by changing the prefix so the rules will now read as R 336.1906, R 336.1910, R 336.1911, R 336.1915, R 336.1916, and R 336.1930.

The second action took place on August 31, 2018 (83 FR 44485). At that time, EPA published a final rule approving changes to the State of Michigan's minor source permitting rules that are contained in Part 2 of the Michigan Administrative Code. However, the codification of that action erroneously listed the state effective date for Rules 336.1203, 336.1204, 336.1206, 336.1212, and 336.1216 as 7/26/1995, when the correct state effective date should be 7/01/2003. This document corrects the erroneous amendatory language published in the **Federal Register** on August 31, 2018 (83 FR 44485), in the table entitled ''EPA-Approved Michigan Regulations'' on page 44497, for entries R 336.1203, R 336.1204, R 336.1206, R 336.1212, and R 336.1216 by citing the state effective date to read 7/01/2003.

The third action took place on March 7, 2019 (84 FR 8257). At that time, EPA published a final rule approving changes to the State of Ohio's air permitting rules at OAC 3745–31. However, the codification of that action erroneously listed the state effective date for rule 3745–31–01 as 5/01/2016, when the correct state effective date should be 3/20/2017. This document corrects the erroneous amendatory language published in the **Federal Register** on March 7, 2019 (84 FR 8257), in the table entitled ''EPA-Approved Ohio Regulations'' on page 8259, for entry 3745–31–01 by citing the state effective date to read 3/20/2017.

This action amends the regulatory text to correct these errors. Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because we are merely correcting incorrect citations in previous actions. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

Statutory and Executive Order Reviews

Under Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to E.O. 13211, ''Actions

Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action is not an E.O. 13771 (82 FR 9339, February 2, 2017) regulatory action because this action is not significant under E.O. 12866. Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedures Act or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. 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 E.O. 13175 (65 FR 67249, November 9, 2000). This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of governments, as specified by E.O. 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to E.O. 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by E.O. 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of E.O. 12988 (61 FR 4729, February 7, 1996). EPA has complied with E.O. 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding, including the reasons therefore, and established an effective date of August 26, 2019. EPA will submit a report containing this rule 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**. This correction to 40 CFR part 52 for Michigan and Ohio is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Dated: August 13, 2019.

Cheryl L Newton,

Acting Regional Administrator, Region 5.

Accordingly, 40 CFR part 52 is amended by making the following correcting amendments:

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.*

■ 2. In § 52.1170, the table in paragraph (c) is amended:

■ i. Under the heading ''Part 2. Air Use Approval'', by revising the entries for R 336.1203, R 336.1204, R 336.1206, R 336.1212, and R 336.1216; and

■ ii. Under the heading ''Part 9. Emission Limitations and Prohibitions—Miscellaneous'', by revising the entries for R 336.1906, R 336.1910, R 336.1911, R 336.1915, R 336.1916, and R 336.1930.

The revisions read as follows:

§ 52.1170 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MICHIGAN REGULATIONS

Michigan citation	Title	State effective date	EPA approval date	Comments
* * *	*	*	*	*
Part 2. Air Use Approval				
* * *	*	*	*	*
R 336.1203	Information required	7/01/2003	8/31/2018, 83 FR 44485.	
R 336.1204	Authority of agents	7/01/2003	8/31/2018, 83 FR 44485.	
* * *	*	*	*	*
R 336.1206	Processing of applications for permits to install	7/01/2003	8/31/2018, 83 FR 44485.	

EPA-APPROVED MICHIGAN REGULATIONS—Continued

Michigan citation	Title	State effective date	EPA approval date	Comments
* *	* *	*	*	*
R 336.1212	Administratively complete applications; insignificant activities; streamlining applicable requirements; emissions reporting and fee calculations.	7/01/2003	8/31/2018, 83 FR 44485.	
R 336.1216	Modifications to renewable operating permits ..	7/01/2003	8/31/2018, 83 FR 44485.	
* *	* *	*	*	*
Part 9. Emission Limitations and Prohibitions—Miscellaneous				
* *	* *	*	*	*
R 336.1906	Diluting and concealing emissions	5/20/2015	12/19/2016, 81 FR 91839.	
R 336.1910	Air-cleaning devices	1/19/1980	5/6/1980, 45 FR 29790.	
R 336.1911	Malfunction abatement plans	5/20/2015	12/19/2016, 81 FR 91839.	
* *	* *	*	*	*
R 336.1915	Enforcement discretion in instances of excess emission resulting from malfunction, start-up, or shutdown.	5/28/2002	2/24/2003, 68 FR 8550.	
R 336.1916	Affirmative defense for excess emissions during start-up or shutdown.	5/28/2002	2/24/2003, 68 FR 8550.	
R 336.1930	Emission of carbon monoxide from ferrous cupola operations.	12/20/2016	7/19/2018, 83 FR 34050.	
* *	* *	*	*	*

* * * * *

■ 3. In § 52.1870, the table in paragraph (c) is amended by revising the entry for 3745–31–01 under ''Chapter 3745–31 Permit-to Install New Sources and Permit-to-Install and Operate Program'' to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED OHIO REGULATIONS

Ohio citation	Title/subject	Ohio effective date	EPA approval date	Notes
* *	* *	*	*	*
Chapter 3745–31 Permit-to Install New Sources and Permit-to-Install and Operate Program				
3745–31–01	Definitions	3/20/2017	3/7/2019, 84 FR 8257	Except for (I), (NN)(2)(b) and (c), (SSS)(1)(b), (CCCC)(2)(d) through (h), (QQQQ), (JJJJJ), and (BBBBBB).
* *	* *	*	*	*

[FR Doc. 2019–18241 Filed 8–23–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2019–0056; FRL–9996–19–Region 9]

Approval of California Air Plan Revisions; Imperial County Air Pollution Control District; Stationary Source Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the Imperial County Air Pollution Control District (ICAPCD or District) portion of the California State Implementation Plan (SIP). This revision concerns the District's New Source Review (NSR) permitting program for new and modified sources of air pollution. We are approving a local rule under the Clean Air Act (CAA or the Act).

DATES: This rule will be effective on September 25, 2019.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2019–0056. 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: T. Khoi Nguyen, EPA Region IX, (415) 947–4120, *nguyen.thien@epa.gov,* 75 Hawthorne Street (AIR–3–1), San Francisco, California 94105.

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

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I. Proposed Action
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I. Proposed Action

On March 22, 2019, the EPA proposed an approval of Rule 207—New and Modified Stationary Source Review, as noted in Table 1, submitted by the California Air Resources Board (CARB) for incorporation into the ICAPCD portion of the California SIP. 84 FR 10753. Table 1 also lists the dates the rule was adopted by the ICAPCD and submitted by CARB, which is the governor's designee for California SIP submittals. On February 22, 2019, the EPA determined that the submittal for ICAPCD Rule 207 met the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

TABLE 1—SUBMITTED RULE

Local agency	Rule #	Rule title	Amended	Submitted
ICAPCD ..	207	New and Modified Stationary Source Review [1]	9/11/18	10/5/18

We proposed to approve this rule because we determined that it complies with the relevant CAA requirements. The rule was amended by the District to correct a deficiency identified by the EPA on September 5, 2017 in a previous version of the rule amended October 22, 2013. 82 FR 41895. The deficiency identified by the EPA in our September 5, 2017 action was that Rule 207 did not regulate ammonia as a $PM_{2.5}$ precursor. We are now approving Rule 207 as amended by the District on September 11, 2018 because it satisfies all of the statutory and regulatory requirements for a nonattainment NSR permit program as set forth in the applicable provisions of part D of title I of the Act (sections 172, 173 and 182(a)) and in 40 CFR 51.165 and 40 CFR 51.307 and now satisfies the requirements in 40 CFR 51.165(a)(13) for the regulation of $PM_{2.5}$ precursors as it pertains to ammonia. Our proposed action contains more information on the rule and our evaluation.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received two comments. However, the comments were either not adverse or irrelevant to the proposed action. The comments have been added to the docket for this action and are accessible at *https://www.regulations.gov.*

[1] Except subsections C.1.c, C.2.a, C.2.b, D.1.g, and D.3.b, which were not submitted to the EPA by the state for consideration for inclusion in the SIP.

III. EPA Action

No comments were submitted that change our assessment of the rule as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving this rule into the California SIP.

IV. Incorporation by Reference

In this rule, 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 ICAPCD rules described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available through *https://www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the CAA, the EPA 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 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 3, 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, 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 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 25, 2019. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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 CAA section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: June 24, 2019.

Deborah Jordan,

Acting Regional Administrator, Region IX.

Part 52, 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)(490)(i)(A)(*2*) and (c)(522) to read as follows:

§ 52.220 Identification of plan-in part.

* * * * *

(c) * * *

(490) * * *

(i) * * *

(A) * * *

(*2*) Previously approved on September 5, 2017 in paragraph (c)(490)(i)(A)(*1*) of this section and now deleted with replacement in paragraph (c)(522)(i)(A)(*1*) of this section, Rule 207 revised on April 24, 2014.

* * * * *

(522) The following amended regulations were submitted on October 5, 2018 by the Governor's designee.

(i) *Incorporation by reference.* (A) Imperial County Air Pollution Control District.

(*1*) Rule 207, ''New and Modified Stationary Source Review,'' except subsections C.1.c, C.2.a, C.2.b, D.1.g, and D.3.b, revised on September 11, 2018.

(*2*) [Reserved]

(B) [Reserved]

(ii) [Reserved]

[FR Doc. 2019–18135 Filed 8–23–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2018–0696: FRL–9998–82–OAR]

RIN 2060–AU33

Adopting Requirements in Emission Guidelines for Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In this action, the U.S. Environmental Protection Agency (EPA) is amending the 2016 Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills (''MSW Landfills EG''). The general requirements for state and federal plans implementing emission guidelines (EG) are referred to as implementing regulations, which are cross-referenced in the MSW Landfills EG. In a separate regulatory action titled ''Revisions to Emission Guidelines Implementing Regulations,'' the EPA finalized changes to modernize the implementing regulations governing EG under a new subpart. This action updates the cross-references to the implementing regulations in the MSW Landfills EG to harmonize with the new requirements for state and federal plans.

DATES: *Effective date:* The final rule is effective on September 6, 2019.

Compliance date: States must submit state plans by August 29, 2019.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2018–0696. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov/,* or in hard copy at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The EPA's Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Allison Costa, Sector Policies and Programs Division (Mail Code E143–03), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–1322; fax number: (919) 541–0516; and email address: *costa.allison@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for

reference purposes, the EPA defines the following terms and acronyms here:

CAA Clean Air Act
CRA Congressional Review Act
EG Emission Guidelines
EPA Environmental Protection Agency
MSW Municipal Solid Waste
NAICS North American Industry Classification System
NTTAA National Technology Transfer and Advancement Act of 1995
OMB Office of Management and Budget
PRA Paperwork Reduction Act
RIA Regulatory Impact Analysis
RFA Regulatory Flexibility Act
SIP State Implementation Plan
UMRA Unfunded Mandates Reform Act
U.S.C. United States Code

Organization of this document. The information in this preamble is organized as follows:

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F. Executive Order 13132: Federalism
G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
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I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use
J. National Technology Transfer and Advancement Act (NTTAA)
K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
L. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

Regulated entities. Categories and entities potentially regulated by this action are shown in Table 1 of this preamble.

TABLE 1—INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

Source category	Name of action	NAICS code [1]
State, local, and tribal government agencies.	Adopting Subpart Ba Requirements in Emission Guidelines for Municipal Solid Waste Landfills.	924119

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but, rather provides a guide for readers regarding entities likely to be regulated by this final action for the source category listed. This table lists the types of entities that the EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table could also be regulated. To determine whether your source category is regulated by this action, you should carefully examine the applicability criteria found in the final rule. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble, your delegated authority, or your EPA Regional representative listed in 40 CFR 60.4 (General Provisions).

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

In addition to being available in the docket, an electronic copy of this final action is available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at *https://www.epa.gov/stationary-sources-air-pollution/municipal-solid-waste-landfills-new-source-performance-standards.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the final document at this same website.

C. Judicial Review

Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of this final rule is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by October 25, 2019. Moreover, under section 307(b)(2) of the CAA, the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce these requirements. Section 307(d)(7)(B) of the CAA further provides that ''[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review.'' This section also provides a mechanism for the EPA to convene a proceeding for reconsideration, ''[i]f the person raising an objection can demonstrate to the EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment, (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.'' Any person seeking to make such a demonstration to us should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

On August 29, 2016, the EPA promulgated a new EG at 40 CFR part 60, subpart Cf, titled ''Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills'' (''MSW Landfills EG''), under CAA section 111(d) (81 FR 59276). The MSW Landfills EG updated the control requirements and monitoring, reporting, and recordkeeping provisions for existing municipal solid waste (MSW) landfill sources. The MSW Landfills EG incorporated by cross-reference or direct adoption of certain requirements for state and federal plans as specified in 40 CFR part 60, subpart B (the ''old implementing regulations''). Under the old implementing regulations at 40 CFR 60.23(a), as incorporated by the MSW Landfills EG, state plans were due 9 months after the MSW Landfills EG final rule was published. Because the MSW Landfills EG was published on

August 29, 2016, states were required to submit their plans to the EPA by May 30, 2017. *See* 40 CFR 60.30f(b). Under the old implementing regulations as incorporated by the MSW Landfills EG, the EPA had 4 months to approve or disapprove a state plan after receipt of a plan or plan revision, 40 CFR 60.27(b), and 6 months to issue federal plans for states that failed to submit approved plans after the due date for state plans, 40 CFR 60.27(c)–(d).

In the recent ''Revisions to Emission Guidelines Implementing Regulations,'' the EPA finalized revisions to the old implementing regulations for EG (84 FR 32520, July 8, 2019). Specifically relevant to this action, the new implementing regulations at 40 CFR part 60, subpart Ba amended the timing requirements in 40 CFR 60.23 and 60.27 for the submission of state plans, the EPA's review of state plans, and the issuance of federal plans. *See* 40 CFR 60.23a and 60.27a. In addition, the new implementing regulations include completeness criteria to be used for the review of state plans, which are modeled after the criteria that apply to state implementation plans (SIPs) submitted under CAA section 110. *See* 40 CFR 60.27a(g).

On October 30, 2018, the EPA published a proposed rule in the **Federal Register** that proposed to adopt the timing requirements of the proposed new implementing regulations in the MSW Landfills EG (83 FR 54527–32). On November 9, 2018, the EPA published a notice correcting the docket number listed for the proposed rule (83 FR 56015). On November 15, 2019, the EPA gave notice of an upcoming public hearing for the action and extended the comment period for the proposed rule until January 3, 2019 (83 FR 57387–88).

III. What is included in the final rule?

A. What are the final rule amendments?

As noted in section IV of the preamble to the ''Revisions to Emission Guidelines Implementing Regulations,'' the EPA is aware of cases where state plan submittal and review processes are still ongoing for existing CAA section 111(d) EG and the EPA is applying the new timing requirements not just to EG published after the new implementing regulations are finalized, but also to ongoing EG already published under CAA section 111(d) (84 FR 32564–65 and 32575, July 8, 2019). In this action, the EPA is promulgating amendments to apply the timing requirements in the new implementing regulations to the MSW Landfills EG, an ongoing CAA section 111(d) action that was published under 40 CFR 60.22(a). Specifically, the EPA is amending the cross-reference within the MSW Landfills EG to refer to the new implementing regulations in 40 CFR 60.30f for the provisions related to the ''Adoption and submittal of State plans; public hearings'' (40 CFR 60.23a, replacing 40 CFR 60.23) and ''Actions by the Administrator'' (40 CFR 60.27a, replacing 40 CFR 60.27).

The old implementing regulations included specific requirements detailing the states' responsibilities to provide adequate notice of, hold, and document a public hearing on the state plan or plan revision. The old implementing regulations further allowed the Administrator to extend the period of submission of any plan. Additionally, the old implementing regulations allowed the Administrator 4 months after submission of a state plan to approve or disapprove the plan and required the promulgation of a federal plan within 6 months after the date required for state plan submissions that will apply to any state that has not adopted and submitted an approved plan within that time frame.

The new implementing regulations require states to submit a plan within 3 years of the publication of an EG or to submit a plan revision at any time necessary to meet the requirements of an applicable subpart. The new implementing regulations allow some flexibility to the requirements for public hearings, specifically allowing relevant materials to be made available to the public via the internet and allowing a state to cancel a public hearing if the state includes information in the notice that the hearing will be cancelled if no one requests a hearing within 30 days of the notice. Other requirements regarding the hearing remain unchanged between the old and new implementing regulations. The new implementing regulations allow the Administrator to shorten, but not to extend, the period for submission of any state plan. Additionally, the new implementing regulations require the Administrator to evaluate submitted state plans for completeness according to certain criteria within 60 days of receipt of submission, but no later than 6 months after the deadline by which states were required to submit their plans. The new implementing regulations establish that a state plan shall automatically be deemed complete if no determination has been made within 6 months of the state's submission. The Administrator will approve or disapprove state plans within 12 months of the completeness determination. Additionally, the Administrator will promulgate a federal plan within 2 years after either a state fails to submit a plan, a state submits a plan that is deemed incomplete and the deficiency is not corrected, or a state plan is disapproved.

For the MSW Landfills EG, which was published on August 29, 2016, the application of the new implementing regulations results in the following timetable for states: State plans are due to be submitted to the Administrator by August 29, 2019. The Administrator shall determine completeness within 6 months of the state submission. The Administrator will approve or disapprove plans deemed complete within 12 months of the completeness determination.

The EPA also is finalizing two clerical amendments to correctly incorporate the provisions of the new implementing regulations in the MSW Landfills EG. Within the new implementing regulations, provisions in 40 CFR 60.23a(a)(1) and 60.27a(e)(1) refer to the final guideline documents published under 40 CFR 60.22a(a). The text in 40 CFR 60.22(a) and 40 CFR 60.22a(a) refer to the implementing regulations that apply to a particular EG, depending on when the EG was published. The provisions in 40 CFR part 60, subpart Ba were published in the **Federal Register** on July 8, 2019. Therefore, EG published prior to that date are considered guideline documents published under 40 CFR 60.22(a) and EG published on or after that date are considered guideline documents published under 40 CFR 60.22a(a). Since the MSW Landfills EG was published prior to the new implementing regulations, the EPA is clarifying that these provisions (40 CFR 60.23a(a)(1) and 60.27a(e)(1)) will refer to a guideline document that was published under the old implementing regulations in 40 CFR 60.22(a).

Finally, the EPA is amending the specific deadline for the submission of state plans that is listed in 40 CFR 60.30f(b). The specific deadline is now August 29, 2019, instead of May 29, 2017. The specific date that was included in the MSW Landfills EG was based on the timing requirements of the old implementing regulations, which only allowed states 9 months to adopt and submit a state plan to the Administrator. The date is now revised to match the timing requirements of the new implementing regulations, which have replaced the old timing requirements referenced in 40 CFR 60.30f(a).

The EPA also took comment on the provisions that would apply to states that submitted state plans prior to the promulgation of these amendments. Specifically, the EPA questioned whether to amend the MSW Landfills EG regulatory text to require those states

to resubmit their plans in accordance with the provisions of the proposed new implementing regulations. Additionally, the EPA questioned, if resubmission was not required, whether the EPA should still evaluate the already-submitted plans for compliance with the new completeness criteria. The EPA is not finalizing any additional requirements for states that have already submitted plans. Therefore, state plans submitted prior to promulgation of these amendments will continue to be reviewed according to the provisions of the old implementing regulations.

On May 6, 2019, the U.S. District Court for the Northern District of California issued a decision in the case, *State of California* v. *EPA,* No. 4:18–cv–03237 (N.D. Cal. 2019). In that case, a coalition of eight states and an intervenor, Environmental Defense Fund (EDF), claimed that the EPA had failed to perform nondiscretionary duties to approve or disapprove existing state plans and to issue a federal plan in accordance with the EPA's old implementing regulations at 40 CFR part 60, subpart B, which were cross-referenced in the MSW Landfills EG. The Court ordered the EPA to take action on existing state plans by September 6, 2019, and to promulgate a federal plan by November 6, 2019.[1] As noted in section II of this preamble, the EPA recently finalized new implementing regulations that amend the timing requirements for the submission of state plans, the EPA's review of state plans, and the issuance of federal plans. This final rule, together with the new implementing regulations, change certain deadlines applicable to the MSW Landfills EG, including the deadline for a federal plan. The EPA acknowledges that, with respect to the deadline for a federal plan, there is now a conflict between the EPA's regulations and the Court's order. If the EPA determines that it should no longer have to comply with the deadline for a federal plan in the Court's order due to the promulgation of this final rule, the EPA will seek appropriate relief from the Court. State plans submitted prior to promulgation of this final rule, however, will continue to be reviewed in accordance with the provisions of the old implementing regulations and finalized in accordance with the Court's order. States that have not yet submitted a state plan have until August 29, 2019, to do so.

B. What is the rationale for our final decisions and amendments?

After considering public comments and further analyzing the available data, the EPA did not make any major substantive changes to the final rule relative to what we proposed. A complete list of public comments received on the proposed rule and the corresponding responses can be viewed in the document, ''Responses to Public Comments on EPA's Adopting Subpart Ba Requirements in Emission Guidelines for Municipal Solid Waste Landfills: Proposed Rule'' (hereafter ''Response to Comments document''), which is available in the docket for this action. This section of the preamble summarizes the minor changes made since the proposal, key comments with our responses, and the rationale for our final approach.

1. Application of and Rationale for Timing Requirements in New Implementing Regulations to the MSW Landfills EG

The EPA proposed to amend 40 CFR 60.30f(a) to refer to 40 CFR 60.23a and 40 CFR 60.27a in lieu of 40 CFR 60.23 and 40 CFR 60.27, respectively, and to change the corresponding date for submission of state plans in 40 CFR 60.30f(b). We are finalizing the amendments as proposed, except we are removing the proposed amendment that stated that the requirements of 40 CFR 60.27a(e)(2) would continue to refer to 40 CFR 60.24(f) instead of 60.24a(f). The amendment is no longer necessary, as the reference to 40 CR 60.24a(f) was a typographical error in the proposed implementing regulations. The final amendments promulgated for 40 CFR 60.27a(e)(2) in the new implementing regulations now refer to 40 CFR 60.24a(e) (instead of 40 CFR 60.24a(f) as proposed) for the factors that states may consider when adopting less stringent emission standards or compliance times than the EG. These factors are substantively similar to those listed in 40 CFR 60.24(f). Therefore, there is no longer a need to clarify this requirement in the MSW Landfills EG.

Comment: Two commenters supported the EPA's proposal to amend the MSW Landfills EG to align the timing requirements for submitting and acting on CAA section 111(d) plans with the proposed timing requirements in 40 CFR part 60, subpart Ba on the basis that the existing timing requirements were insufficient. The commenters stated that 9 months is not a realistic time frame for states to develop and submit a plan under CAA section 111(d) because the plans have to include rules to make the state standards adopted pursuant to the CAA section 111(d) guidelines enforceable. The commenters noted that regardless of the substantive content of any particular state plan, such rulemaking commonly takes a year, not including technical work and outreach to stakeholders beforehand. One commenter described many steps that are part of a state rulemaking process, including initial public outreach, drafting a proposed plan, taking public comment on that proposal, evaluating and responding to comments, seeking final approval of other state governmental entities, and codification into the state administrative code. The commenter believed that the current 9-month deadline can constrain the process and either diminish opportunities for public involvement or limit the ability of state governmental officials to fully evaluate the policies underlying the plan. The commenters further explained that the deadlines in the current implementing regulations were adopted in 1975 and do not reflect the increased complexity and procedural demands of emission standard development and rulemaking under current state and federal law. One of the commenters noted that the current deadline for EPA approval of state plans is too short and further explained that the EPA frequently takes longer than 1 year to approve SIPs under CAA section 110. The commenter claimed that inconsistencies between state rules, approved state plans, and the EPA's regulations can cause significant confusion, citing *United States* v. *Cinergy,* 623 F.3d 455, 457–59 (7th Cir. 2010). The commenter pointed out that the EPA's approval or disapproval of state plans requires multiple steps, including developing and publishing a proposal to approve or disapprove the plan, evaluating and responding to comments received from the public, and then issuing a final decision, all of which require involvement of various levels within the U.S. government (*e.g.,* approval of the U.S. Office of Management and Budget (OMB)). The commenter contended that the deadlines in the new implementing regulations will ensure sufficient time for the rulemaking process and increase the amount of time allowed for states and the EPA to work together to resolve any differences of opinion they may have on the plan submitted. The commenter further asserted that such coordination could avoid the need to disapprove a plan, and, thus, avoid the need to devote resources toward a

[1] One of the existing state plans, submitted by Maricopa County, Arizona, was withdrawn after the Court's original order on May 6, 2019. The Court issued a subsequent order on July 19, 2019, to exclude the Maricopa County plan from the original order.

federal plan or a revised state plan. Therefore, the commenters concluded that the EPA's proposed deadlines are much more reasonable and realistic.

Another commenter generally supported the proposed new implementing regulations for any future EG issued under CAA section 111(d). However, the commenter believed that it is only appropriate to apply the new implementing regulations prospectively to new CAA section 111(d) EG, not retroactively to the MSW Landfills EG. The commenter requested that the EPA consider finalizing revisions to incorporate the new implementing regulations in the MSW Landfills EG during the ongoing reconsideration of the MSW Landfills EG.

Meanwhile, two commenters found the EPA's proposal to be unreasonable and inadequately supported. One commenter emphasized that the proposed amendments add several years to a state plan development and approval process that should already be well underway. The commenter claimed that the proposal is arbitrary and capricious because neither the justifications in the proposal or the proposal for the new implementing regulations were adequate. The second commenter contended that the proposal should already have been implemented. The commenter stated that the EPA can give states more time to complete plans for a particular EG, as in the Clean Power Plan (80 FR 64855, October 23, 2015), or extend the deadline on an individual basis for a state that presents a factual record to demonstrate its need for more time to submit its state plan according to 40 CFR 60.27(a).

Response: Given the EPA's experience working with states to develop SIPs under CAA section 110, we agree with the commenters that adopting the timing requirements in the new implementing regulations for the MSW Landfills EG is a reasonable way to provide realistic deadlines for the process of submitting, reviewing, and approving state plans, and promulgating a federal plan. As stated in the preamble to the proposed rule, states have considerable flexibility in implementing CAA section 111(d) and the development of state plans requires a significant amount of work, effort, and time. Adoption of these amendments allows states more time to interact and work with the EPA in the development of state plans and minimize the chance of unexpected issues arising that could slow down eventual approval of state plans. Congressional intent, strengthened by the reference to CAA section 110, is clear that implementation of CAA section 111(d) is intended to be primarily a state-driven process, and the existence of federal backstop authority is not a sufficient reason to decline to provide a sufficient period of time for states to develop and submit their plans (83 FR 54530, October 30, 2018).

The EPA reiterates the justification provided in the proposal for this action and emphasizes the number of states who failed to meet the original deadline supports the need to adopt more reasonable timing requirements. As stated in the preceding paragraph, the EPA's prior experience on reviewing and acting on SIPs under CAA section 110 illustrates that it is appropriate to extend the period for the EPA's review and approval or disapproval of plans to a 12-month period (after a determination of completeness, either affirmatively by the EPA or by operation of law). This timeline would provide adequate time for the EPA to review plans and follow notice-and-comment rulemaking procedures to ensure an opportunity for public comment on the EPA's proposed action on a state plan (83 FR 54530, October 30, 2018). Given that most states did not meet the prescribed 9-month period to submit a state plan by May 30, 2017, the EPA determined that it would be more efficient to adopt the new implementing regulations rather than grant extensions to individual states according to the provisions of 40 CFR 60.27(a), as one commenter suggested.

Finally, as stated in the preamble to the proposed rule, the EPA determined that it is appropriate to extend the timing for the EPA to promulgate a federal plan for states that fail to submit an approvable state plan, consistent with the federal implementation plan deadline under CAA section 110(c). Whenever the EPA promulgates a federal plan, it must follow the rulemaking requirements in CAA section 307(d). This involves a number of potentially time-consuming steps, including coordination with many offices, developing a comprehensive record, and considering comments submitted on a proposed plan. In addition, when states fail to submit a plan as required under the MSW Landfills EG, we typically promulgate a single federal plan that applies to a number of states. Unlike a federal plan developed for a single state, the federal plan developed here may be more complex and time-intensive since it must be tailored to meet the needs of many states (83 FR 54530–31, October 30, 2018).

Comment: Five commenters objected to the EPA's justification that states need more time to submit their plans. The commenter noted that the extended deadlines that some stakeholders requested when the EPA promulgated the MSW Landfills EG (at least 12 to 24 months) have passed and that the EPA's time period is 36 months—longer than commenters requested. One commenter also alleged that the EPA actively encouraged states to flout the March 30, 2017, deadline and pointed to various pieces of email correspondence from Regional offices, primarily during the pendency of the stay from May 31, 2017, through August 29, 2017. The commenter cited a desk statement that the EPA issued in October 2017, stating that the EPA did not plan to prioritize review of state plans submitted or issue a federal plan for states that failed to submit a state plan. The commenter maintained that the correspondence makes the EPA's justification regarding the small number of plans submitted ''at the very least disingenuous.''

Response: The EPA disagrees with the commenter's assessment and characterization of the EPA's actions. The correspondence the commenter cites shows that there appeared to be some confusion about the impact of the EPA's statement on May 5, 2017, regarding the grant of reconsideration and a promise to stay the MSW Landfills EG. In particular, it appears that some states and Regional offices did not recognize that the date the stay was ultimately issued (May 31, 2017) did not change the fact that the deadline of May 30, 2017 (one day prior to the start of the stay period), remained valid to submit state plans. Contrary to the commenter's assertions, the desk statement made it clear that state plans were due May 30, 2017. *See* Commenter's Appx. at 418 (''Under the emissions guidelines, CAA section 111(d) state plans for addressing existing landfills were due May 30, 2017''), which is available in the docket for this action (Docket ID Item No. EPA–HQ–OAR–2018–0696–0029, Attachment 4). The desk statement also made it clear that, consistent with the expiration of the stay on August 29, 2017, ''the 2016 rules are currently in effect.'' *Id.* The EPA's explanations in the desk statement regarding its priorities and reassurance about potential sanctions for failure to submit state plans does not change the clear message that the plans were due on May 30, 2017. Even if some states were confused from correspondence before or during the stay regarding their compliance obligations, the desk statement put them on notice that the May 30, 2017, due date remained valid. The commenter cites no correspondence from a state

maintaining they were not submitting their state plan due to the October 2017 desk statement. Indeed, three states and two counties submitted their plans after the desk statement was issued—Maricopa County, Arizona, on May 4, 2018 (which was subsequently withdrawn); Pinal County, Arizona, on March 4, 2019; the remainder of Arizona on July 24, 2018; Delaware on October 13, 2017; and West Virginia on September 19, 2018. California, New Mexico, and Albuquerque–Bernalillo County, New Mexico, submitted their plans on or before the May 30, 2017, deadline. The commenter provides no evidence, only speculation, that other states failed to submit a plan due to the October 2017 desk statement. Although some commenters requested at least 12 to 24 months when commenting on the original guidelines, the fact that the majority of states did not submit a state plan within that time frame supports the EPA's contention that states need more time to submit their state plans. As the EPA explains in the prior response, and as supported by other commenters, the 36-month period is a reasonable period of time for states to submit their plans.

Comment: One commenter stated that this action is invalid under *Air Alliance Houston* v. *EPA,* 906 F.3d 1049, 1065 (D.C. Cir. 2018), and similar cases because the rule is an attempt to stay the MSW Landfills EG while the EPA reconsiders the guidelines, contrary to the Court's holding in *Air Alliance* and similar cases.

Response: The EPA disagrees with the commenter that *Air Alliance* and similar cases cited are applicable to this action. All the cases the commenter cited involve the EPA invoking its stay authority under CAA section 307(d)(7)(B) or extending the effective date of a rule pending reconsideration. That is not the case with the current action. In this final rule, the EPA is not invoking its stay authority or extending the effective date of a rule pending reconsideration.

As the Court in *Air Alliance* noted, the EPA ''retains authority . . . to substantively amend the programmatic requirements of [a rule], and pursuant to that authority, revise its effective and compliance dates, subject to arbitrary and capricious review.'' *Air Alliance Houston* v. *EPA,* at 1066. The EPA is doing precisely what the Court in *Air Alliance* said is the proper course of action. The EPA is substantively amending the programmatic requirements of the MSW Landfills EG and, pursuant to its authority to amend those requirements, is revising the compliance dates of the rule. As explained elsewhere in the Response to Comments document, available in the docket for this rulemaking, the EPA's revisions to the compliance deadlines meet the arbitrary and capricious standard of review because the revised compliance deadlines are consistent with CAA requirements, are supported by the record, and are rationally explained. Additionally, see the Response to Comments document for more detailed discussion of the specific cases cited.

What is the rationale for our final approach? For the reasons explained in the preamble to the proposed rule (83 FR 54530–54531, October 30, 2018) and in the comment responses in this section of this preamble, we are finalizing the requirements in 40 CFR 60.30f(a) and (b) to refer to the timing and completeness requirements in 40 CFR 60.23a and 60.27a.

2. Addition of New Completeness Criteria for Evaluation of State Plans; Resubmittal of Already-Submitted State Plans

The EPA is finalizing, as proposed, the requirement for state plans to be evaluated according to the criteria in 40 CFR 60.27a(g). The EPA did not receive any comments in favor of requiring states to resubmit their plans or in favor of evaluating the already-submitted plans for compliance with the new completeness criteria.

Comment: Two commenters opposed applying completeness criteria to previously submitted state plans. One commenter contended that the Arizona Department of Environmental Quality's submittal already meets the proposed new completeness criteria and believed it could remedy any inconsistencies between its currently submitted plan and the new proposed completeness requirements through a supplemental submittal. The other commenter pointed out that the EPA should have already completed its review of these state plans. Thus, the commenter contended that applying completeness criteria to previously submitted plans would result in unlawful retroactive application of new, more burdensome criteria. The commenter stated all plans should be held to the same regulatory standard, regardless of when they were submitted.

Response: The EPA has reviewed the comments and determined that it is not necessary to require states who have already submitted state plans prior to the promulgation of these amendments to resubmit those plans to demonstrate compliance with the new completeness criteria in 40 CFR 60.27a(g). The EPA is in the process of reviewing the state plans that have already been submitted prior to the promulgation of these amendments and will evaluate these plans in accordance with the old implementing regulations (40 CFR 60.27(b)). Therefore, it is not necessary to consider whether a supplemental proposal is needed from states that have already submitted state plans. Similarly, because the EPA is not changing any requirements for these states, there is no need for the states to review the submitted plans or the completeness criteria and there will be no additional burden for these states.

Regarding the commenter's statement that all plans should be reviewed according to the same criteria, the EPA maintains, as stated in the preamble to the proposed rule, that the new completeness criteria for states are based on the criteria outlined in the old implementing regulations and in 40 CFR part 51, appendix V, that states already follow when developing SIPs under CAA section 110. The criteria in 40 CFR part 51, appendix V apply to the majority of state plans submitted to the EPA, and, therefore, many states likely already comply with these completeness criteria when developing their CAA section 111(d) state plans. Thus, the EPA has determined that state plans submitted prior to the promulgation of this rule are not subject to substantively different review criteria than plans submitted after promulgation of this rule.

What is the rationale for our final approach? In response to comments as described within this section of this preamble, we are not making any changes to the requirements that we proposed. The EPA is not requiring that state plans that were already submitted prior to the promulgation of these amendments be evaluated according to the completeness criteria in the new implementing regulations and, therefore, we are not requiring resubmission of those state plans.

3. Impacts of This Action

In the preamble to the proposed rule (83 FR 54531, October 30, 2018), we explained that although the costs and benefits of harmonizing the timing requirements of state plans cannot be quantified due to inherent uncertainties, the EPA believes that they will be minimal. This includes impacts of the costs for landfills to install gas collection systems, the amount of landfill gas captured over the life of the project, and the costs for states to comply with the new timing and completeness criteria. The EPA requested comments on this determination.

Comment: Commenters disagreed in their views of the EPA's assessment of

the environmental impacts, with some commenters agreeing that impacts would be minimal, and others contending that the rule would have significant impacts on human health and welfare.

One commenter disputed any claims that the EPA's proposal to extend the process for implementing the MSW Landfills EG would have a detrimental impact on the environment. To the contrary, the commenter believed that the proposal to adopt new deadlines into the MSW Landfills EG will not have any real impact on emissions or the environment. The commenter pointed out that the revisions to the EG that the EPA adopted in 2016 would further reduce emissions by only 3 percent, which may be overstated. The commenter claimed that landfills are already well controlled, and that the EPA's 2016 analysis showed impacts for 2025, which is still 6 years away. The commenter claimed that extending the deadlines merely reflects the current reality of the rule—most states have not yet submitted state plans and maintaining the current deadlines would not change that fact.

Two commenters claimed the action is unlawful because the EPA has a statutory responsibility to reduce air emissions from pollutants that endanger human health and the environment. One of the commenters disagreed that the proposal represents a procedural change and claims it is a substantial revision of the MSW Landfills EG, which will result in significant additional emissions of dangerous air pollution with adverse effects on human health and welfare. The commenter said that the EPA has not explained how this proposal will not forego those benefits. This commenter asserted that the EPA does not provide justification for the statement that impacts are minimal. The commenter also claimed the EPA does not acknowledge its prior analyses of the public health, environmental, or energy impacts, which the commenter says are required statutory considerations when establishing EG under CAA section 111. Another commenter explained that the EPA did not provide information about surveying affected facilities to see which ones may or may not have already installed controls, so the conclusions in the preamble are insufficient.

One commenter asserted that the rule would have significant adverse impacts on human health and welfare. The commenter cited the preamble to the MSW Landfills EG (81 FR 59276, August 29, 2016) and noted that the EPA estimated that the EG would reduce 1,810 megagrams per year of nonmethane organic compound emissions and 285,000 metric tons of methane per year (over 7.1 million metric tons of carbon dioxide equivalent) plus displace fossil fuel-generated electricity. In that preamble, the EPA estimated that, by 2025, the annual net benefits of the EG would be $390 million. Therefore, the commenter claimed that by delaying implementation, the EPA is forfeiting reductions of tens of millions of metric tons of greenhouse gas emissions and at least $1.5 billion in net benefits.

Multiple commenters believe that delaying implementation of the EG would have a net cost. Two of these commenters claim that the EPA failed to conduct a Regulatory Impact Analysis (RIA) or analyze the foregone benefits and argues that the costs are substantial, not minimal. One commenter claims that human health and welfare is at stake due to climate change, so the action cannot be reasonable regardless of economic impact. One commenter, thus, cited the EPA's ''Regulatory Impact Analysis for the Final Revisions to the Emission Guidelines for Existing Sources and the Final New Source Performance Standards in the Municipal Solid Waste Landfills Sector,'' EPA–452/R–16–003 (2016 RIA) (Docket ID Item No. EPA–HQ–OAR–2003–0215–0235) to demonstrate that delaying implementation of the EG has a net cost. The commenter claimed that according to the 2016 RIA, 92 landfills would reduce 330,000 metric tons of methane in 2019 due to the EG. The commenter asserted that is an average of an additional 3,580 tons of methane emitted from each landfill in 2019. The commenter also asserted that the social cost of methane for 2019 emissions is approximately $1,200 in 2007 dollars ($1,490 in 2018 dollars), which would mean that each landfill that postponed installation has over $5 million in forgone climate benefits/monetized climate damages, plus unmonetized impacts to health and environment. Because the social costs are not zero, the commenter stated the EPA can and should assess how many landfills could postpone installation of controls before the delay is not cost-benefit justified.

A second commenter estimated that, using the values from the MSW Landfills EG preamble (81 FR 59280, August 29, 2016), this action would lead to forfeiture of $397 million in annual net benefits from 2019 through 2025. Another commenter stated that the proposed amendment would result in adverse climate impacts totaling $400 million to $4.8 billion, based on the 2016 RIA, saying that methane emission reduction benefits of the proposed rule are approximately $200 million to $1.2 billion per year and assuming that this rule will delay these reductions by 2 to 4 years.

Another commenter cited the 2016 RIA to state that methane emissions would be reduced by 330,000 metric tons per year and nonmethane organic compounds by 281 metric tons per year. The commenter included data from the 2016 RIA Tables 3–13, 3–14, and 6–7 to show the number of affected landfills, annual emission reductions, and annual net benefits of the EG over each year from 2019 to 2030. To calculate the foregone emission reductions and net benefits from the current proposal, the commenter assumed that states and the EPA would take the maximum amount of time allowed by the new deadlines. Then the commenter added 36 months (instead of 30 months) for the initial monitoring and installation lead time allowed in the rules, which resulted in approximately 11,000 tons nonmethane organic compounds emissions, 1.75 million tons methane emissions, and over $2 billion cumulatively, depending on how many states prepare individual plans. The commenter estimated that, even if the EPA promulgated a federal plan in July 2019, the proposal would still result in foregone benefits of 3,000 to 5,000 tons nonmethane organic compounds emissions; 500,000 to 800,000 tons methane emissions, and net benefits of nearly $1 billion.

Response: The EPA disagrees that this final action will result in significant foregone economic and climate benefits. As one commenter cited, many MSW landfills are already well controlled, due in part to some MSW landfills that install landfill gas collection systems prior to the dates required by the MSW Landfills EG to capitalize on incentives (*e.g.,* revenue from recovered energy) or in order to comply with state rules that have more stringent regulatory requirements. For example, a web search of two major carbon offset registries, the American Carbon Registry and Climate Action Reserve, returned over 100 U.S. landfill gas capture/combustion projects that have registered credits. To be eligible to produce offset credits, the landfill gas capture/combustion projects cannot be required due to regulation. Therefore, these lists are one example of the prevalence of voluntary installation of landfill gas collection systems.[2] A copy of the results obtained from a search on June 13, 2019, is available in the docket for this action. In comparison, the MSW

[2] *See https://americancarbonregistry.org/how-it-works/registry-reports* and *https://www.climateactionreserve.org/how/projects/.*

Landfills EG estimated that 93 landfills would need to install controls due to the change in emissions threshold (81 FR 59305, August 29, 2016).

Multiple commenters cited the 2016 RIA. However, the commenters failed to provide any new information or refute the EPA's assessment that some landfills would install controls earlier than required by federal regulations. Similarly, all except one of these commenters assumed the ''worst-case'' scenario, *i.e.,* that states would wait to submit their state plans until the deadline (or not at all) and that each subsequent step (completeness review, approval, and promulgation of a federal plan for states without approved state plans) would take the maximum amount of time allowed under the new implementing regulations. Additionally, these commenters failed to analyze or acknowledge the effects of the states who have already submitted state plans (California; Delaware; West Virginia; Pinal County, Arizona; the rest of Arizona; Albuquerque-Bernalillo County, New Mexico; and the rest of New Mexico) or who may be developing state plans. For an approvable state plan, these states should already have adopted laws incorporating the requirements of the MSW Landfills EG. As the delegated authority, the state should have revised MSW landfill permits in these states to include the new requirements. Therefore, the emission reductions and associated benefits attributed to the MSW Landfills EG in the 2016 RIA are already occurring in these locations and are not affected by this action.

The EPA emphasizes that this action does not change the stringency of the emission reduction requirements promulgated in the MSW Landfills EG. As noted in the preamble to the proposed rule adopting the 40 CFR part 60, subpart Ba requirements in the MSW Landfills EG, the costs and benefits of harmonizing the timing requirements of state plans cannot be quantified due to inherent uncertainties regarding when affected landfills actually install controls to reduce emissions (84 FR 54531, October 30, 2018). These uncertainties can arise at the state level, based on the timing of the promulgation of state regulations (as discussed above), or at the facility level, as individual landfills evaluate site-specific factors to determine the timing of emissions controls. For example, some facilities may have an incentive to install landfill gas collection systems, such as to recover and use landfill gas as an energy source to offset existing energy costs or to provide a source of revenue prior to regulatory requirement dates. This offers financial advantages for some facilities to install landfill gas collection systems early in the development of the project (*i.e.,* prior to the regulatory requirement date resulting from a state or federal plan implementing the MSW Landfills EG). Additionally, landfill gas collection systems are a common method of reducing odors from landfills. Therefore, other facilities install landfill gas collection systems prior to regulatory requirement dates to reduce odors either voluntarily, as mandated by state odor requirements, or as part of a consent decree/court order. If facilities have already installed controls, then shifting the date by which states must submit plans would not have any impact on the actual collection and control of landfill gas from those facilities. On the other hand, some sources may choose to wait until requirements are enacted prior to installing controls. While this would not impact the cost of installing controls, it could impact the amount of landfill gas captured over the life of the project and increase the net cost (83 FR 54531, October 30, 2018).

In terms of direct costs, as noted in the preamble to the MSW Landfills EG, EG established under CAA section 111(d) do not impose any requirements on regulated entities directly; rather, the EG require states and U.S. territories to establish comparable standards for existing sources. It is those state requirements that impact regulated entities. However, the EG do impose costs on state or local governments, as these governments must establish plans to implement the EG according to the criteria in the implementing regulations (84 FR 59309–10, October 30, 2018). The requirements for states to develop state plans remain substantively the same between the old implementing regulations and the new implementing regulations. While there could be a small increase in burden for administrative hours to ensure the plan specifically meets the new completeness criteria, we expect that burden to be offset by updated provisions that increase flexibility for states, such as the ability to provide information related to public hearings on the internet or the ability to cancel the public hearings in certain situations. Overall, we expect the amendments to provide consistency and streamline procedures for states as they develop plans to meet CAA section 110 and 111 regulations.

What is the rationale for our final approach? For the reasons explained in the preamble to the proposed rule (83 FR 54531, October 30, 2018) and within this section of this preamble, the EPA maintains that the adoption of the new implementing regulations is a procedural change whose impacts cannot be characterized due to inherent uncertainties and are likely to be minimal. Therefore, we have not made any substantive changes to the description of this regulation or the characterization of the impacts within the Statutory and Executive Order Reviews section of this preamble (section IV).

IV. Statutory and Executive Order Reviews

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

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

This action is a significant action that was submitted to OMB for review. Any changes made in response to OMB recommendations have been documented in the docket.

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

This action is considered an Executive Order 13771 deregulatory action. As noted earlier in the preamble, this rule is an administrative action to update the underlying implementing regulations for CAA Section 111(d), as applied to the MSW Landfills EG. While the impact of harmonizing the timing requirements of state plans on the costs and benefits analyzed for Executive Order 12866 of the MSW Landfills EG cannot be quantified due to inherent uncertainties described in section III.B of this preamble, the MSW Landfills EG also impose direct costs on state and local governments, which must develop state plans to meet the requirements of the rule. By adopting the new implementing regulations in the MSW Landfills EG, states will have a consistent set of requirements for all new and ongoing CAA section 110 and 111 plans. We expect the streamlining of these requirements could reduce net costs and provide some burden reduction for states.

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060–0720. Because the burden to prepare and submit a state plan have been fully incorporated into the MSW

Landfills EG, and this action does not change any of the requirements associated with the stringency of the rule, there are no changes to the previously estimated information collection burden.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden, or otherwise has a positive economic effect on the small entities subject to the rule. This action proposes a technical amendment to the MSW Landfills EG promulgated in 2016, which was determined not to impose any requirements on small entities due to the fact that EG established under CAA section 111(d) do not impose any requirements on regulated entities and, thus, will not have a significant economic impact upon a substantial number of small entities. *See* 81 FR 59309–9310 (August 29, 2016) for additional discussion. We have, therefore, concluded that this action similarly will have no net regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments.

The action implements mandate(s) specifically and explicitly set forth in 40 CFR part 60, subpart Ba without the exercise of any policy discretion by the EPA.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have tribal implications, as specified in Executive Order 13175. The MSW Landfills EG recognized that one tribe had three landfills that may potentially be subject to the EG; however, these landfills have already met requirements under the previous new source performance standards/EG framework as promulgated in 1996 (*See* 81 FR 59311, August 29, 2016). Moreover, this action does not establish an environmental health or safety standard. Therefore, the action does not have a substantial direct effect on that tribe since it is merely a procedural change amending timing requirements for states to submit plans to the EPA and for the EPA to promulgate a federal plan. Thus, Executive Order 13175 does not apply to this action.

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

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

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

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that this action is not likely to have any adverse energy effects because it is a procedural change and does not have any impact on energy supply, distribution, or use.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

The EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard. This regulatory action is a procedural change and the EPA does not anticipate that it will have any material impact on human health or the environment.

L. Congressional Review Act (CRA)

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

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedures, Emission guidelines, Landfills, Reporting and recordkeeping requirements, State plan.

Dated: August 16, 2019.

Andrew R. Wheeler,

Administrator.

For the reasons set forth in the preamble, the EPA amends 40 CFR part 60 as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for part 60 continues to read as follows:

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

Subpart Cf—Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills

■ 2. Amend § 60.30f by revising paragraphs (a) and (b) to read as follows:

§ 60.30f Scope and delegated authorities.

* * * * *

(a) If you are the Administrator of an air quality program in a state or United States protectorate with one or more existing MSW landfills that commenced construction, modification, or reconstruction on or before July 17, 2014, you must submit a state plan to the U.S. Environmental Protection Agency (EPA) that implements the Emission Guidelines contained in this subpart. The requirements for state and federal plans are specified in subpart B of this part with the exception that §§ 60.23 and 60.27 will not apply. Notwithstanding the provisions of § 60.20a(a) in subpart Ba of this part, the requirements of §§ 60.23a and 60.27a will apply for state plans submitted after September 6, 2019, and federal plans, except that the requirements of § 60.23a(a)(1) will apply to a notice of availability of a final guideline document that was published under § 60.22(a). Likewise, the requirements of § 60.27a(e)(1) will refer to a final guideline document that was published under § 60.22(a).

(b) You must submit a state plan to the EPA by August 29, 2019.

* * * * *

[FR Doc. 2019–18233 Filed 8–23–19; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 84, No. 165
Monday, August 26, 2019

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 Part 430

[EERE–2017–BT–STD–0014]

RIN 1904–AD98

Energy Conservation Program: Energy Conservation Standards for Residential Clothes Washers

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Extension of public comment period.

SUMMARY: The U.S. Department of Energy (''DOE'') is extending the public comment period for its request for information (''RFI'') to solicit information from the public to help DOE determine whether to amend standards for residential clothes washers (''RCWs''). DOE published the RFI in the **Federal Register** on August 2, 2019 establishing a 30-day public comment period ending September 3, 2019. On August 2, 2019, DOE received a comment requesting a 30 day comment period extension; therefore, DOE is extending the public comment period for submitting comments and data on the RFI by 30 days to October 3, 2019.

DATES: The comment period for the RFI published on August 2, 2019 (84 FR 37794), is extended. DOE will accept comments, data, and information regarding this rulemaking received no later than October 3, 2019.

ADDRESSES: Interested persons are encouraged to submit comments, identified by docket number EERE–2017–BT–STD–0014, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Email: ConsumerClothesWasher2017STD0014@ee.doe.gov. Include the docket number and/or RIN 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-2017-BT-STD-0014.*

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-2017-BT-STD-0014.* 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 August 2, 2019, DOE published a notice in the **Federal Register** soliciting public comment on its RFI to help DOE determine whether to amend standards for RCWs. 84 FR 37794. Comments were originally due on September 3, 2019. On August 2, 2019, DOE received a comment from Association of Home Appliance Manufacturers (AHAM) requesting a 30 day comment period extension.[1] DOE has reviewed the request 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 an extension of the comment period is appropriate, and is hereby extending the comment period by 30 days, until October 3, 2019.

Signed in Washington, DC, on August 16, 2019.

Alexander N. Fitzsimmons,

Acting Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2019–18300 Filed 8–23–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2018–BT–STD–0005]

RIN 1904–AE35

Energy Conservation Program: Energy Conservation Standards for Dishwasher, Grant of Petition for Rulemaking

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Extension of public comment period.

[1] DOE has posted this comment to the docket at *https://www.regulations.gov/document?D=EERE-2017-BT-STD-0014-0003.*

SUMMARY: The U.S. Department of Energy (''DOE'') is extending the public comment period for its grant of a petition for rulemaking and a proposed rule to establish a new product class for dishwashers. DOE published the notice of proposed rulemaking (NOPR) in the **Federal Register** on July 16, 2019 establishing a 60-day public comment period ending September 16, 2019. On August 9, 2019, DOE received a comment requesting a 60 day comment period extension. DOE is extending the public comment period for submitting comments and data on the NOPR by 30 days to October 16, 2019.

DATES: The comment period for the proposed rulemaking published on July 16, 2019 (84 FR 33869), is extended. DOE will accept comments, data, and information regarding this rulemaking received no later than October 16, 2019.

ADDRESSES: Interested persons are encouraged to submit comments, identified by docket number EERE–2018–BT–STD–0005, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Email: Dishwashers2018STD0005@ee.doe.gov. Include the docket number and/or RIN 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 *https://www.regulations.gov/docket?D=EERE-2018-BT-STD-0005.*

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: *https://www.regulations.gov/docket?D=EERE-2018-BT-STD-0005.* 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 July 16, 2019, DOE published a notice of proposed rulemaking (NOPR) in the **Federal Register** soliciting public comment on its grant of a petition for rulemaking and a proposed rule to establish a new product class for dishwashers with a cycle time for the normal cycle of less than one hour from washing through drying. 84 FR 33869. Comments were originally due on September 16, 2019. On August 9, 2019, DOE received a comment from Association of Home Appliance Manufacturers (AHAM) requesting a 60 day comment period extension.[1] DOE has reviewed the request and considered the benefit to stakeholders in providing additional time to review the NOPR and gather information/data that DOE is seeking.

Accordingly, DOE has determined that an extension of the comment period is appropriate, and is hereby extending the comment period by 30 days, until October 16, 2019. Given stakeholders' previous opportunities to comment on the petition when it was initially published on April 24, 2018 (83 FR 17768), DOE feels that the additional 30 days is adequate time for industry members to respond to the NOPR.

Signed in Washington, DC, on August 16, 2019.

Alexander N. Fitzsimmons,

Acting Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2019–18299 Filed 8–23–19; 8:45 am]

BILLING CODE 6450–01–P

[1] DOE has posted this comment to the docket at *https://www.regulations.gov/document?D=EERE-2018-BT-STD-0005-2309.*

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 390

RIN 3064–AF07

Removal of Transferred OTS Regulation Regarding Deposits

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) proposes to rescind and remove the ''Deposits'' regulations because they are unnecessary and duplicative of currently applicable provisions of law with respect to the maintenance of deposit account records at State savings associations. These regulations apply solely to State savings associations, and were included in the regulations that were transferred to the FDIC from the Office of Thrift Supervision (OTS) on July 21, 2011, in connection with the implementation of title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).

DATES: Comments must be received on or before September 25, 2019.

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

- *Agency Website: https://www.fdic.gov/regulations/laws/federal/.* Follow instructions for submitting comments on the agency website.
- *Email: Comments@fdic.gov.* Include RIN 3064–AF07 on the subject line of the message.
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery/Courier:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Public Inspection: All comments received will be posted without change to *https://www.fdic.gov/regulations/laws/federal/,* including any personal information provided. Paper copies of public comments may be ordered from the FDIC Public Information Center, 3501 North Fairfax Drive, Room E–1002.

Please include your name, affiliation, address, email address, and telephone number(s) in your comment. All statements received, including attachments and other supporting materials, are part of the public record and are subject to public disclosure.

FOR FURTHER INFORMATION CONTACT: Karen J. Currie, Senior Examination Specialist, (202) 898–3981, *KCurrie@FDIC.gov,* Division of Risk Management Supervision; Christine M. Bouvier, Assistant Chief Accountant, (202) 898–7289, Division of Risk Management Supervision; Cassandra Duhaney, Senior Policy Analyst, (202) 898–6804, Division of Depositor and Consumer Protection; Laura J. McNulty, Counsel, Legal Division, (202) 898–3817; or Jennifer M. Jones, Counsel, Legal Division (202) 898–6768.

SUPPLEMENTARY INFORMATION:

I. Policy Objective

The policy objective of the proposed rule is to remove unnecessary and duplicative regulations in order to simplify them and improve the public's understanding of them. Thus, the FDIC is proposing to rescind the regulations in 12 CFR part 390, subpart M, entitled *Deposits* (part 390, subpart M).

As discussed below, the FDIC takes the view that no revision to other existing regulations is necessary. This approach would simplify and streamline the FDIC's regulations by removing unnecessary provisions that are adequately provided for in other existing statutes and regulations.

II. Background

A. The Dodd-Frank Act

The Dodd-Frank Act, signed into law on July 21, 2010, provided for a substantial reorganization of the regulation of State and Federal savings associations and their holding companies.[1] Beginning July 21, 2011, the transfer date established by section 311 of the Dodd-Frank Act,[2] the powers, duties, and functions formerly performed by the OTS were divided among the FDIC, as to State savings associations, the Office of the Comptroller of the Currency (OCC), as to Federal savings associations, and the Board of Governors of the Federal Reserve System (FRB), as to savings and loan holding companies. Section 316(b) of the Dodd-Frank Act[3] provides the manner of treatment for all orders, resolutions, determinations, regulations, and other advisory materials that have been issued, made, prescribed, or allowed to become effective by the OTS. The section provides that if such materials were in effect on the day before the transfer date, they continue in effect and are enforceable by or against the appropriate successor agency until they are modified, terminated, set aside, or superseded in accordance with applicable law by such successor agency, by any court of competent jurisdiction, or by operation of law.

Pursuant to section 316(c) of the Dodd-Frank Act,[4] on June 14, 2011, the FDIC's Board of Directors (Board) approved a ''List of OTS Regulations to be Enforced by the OCC and the FDIC Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act.'' This list was published by the FDIC and the OCC as a Joint Notice in the **Federal Register** on July 6, 2011.[5]

Although § 312(b)(2)(B)(i)(II) of the Dodd-Frank Act[6] granted the OCC rulemaking authority relating to both State and Federal savings associations, nothing in the Dodd-Frank Act affected the FDIC's existing authority to issue regulations under the Federal Deposit Insurance Act (FDI Act)[7] and other laws as the ''appropriate Federal banking agency'' or under similar statutory terminology. Section 312(c)(1) of the Dodd-Frank Act[8] revised the definition of ''appropriate Federal banking agency'' contained in § 3(q) of the FDI Act,[9] to add State savings associations to the list of entities for which the FDIC is designated as the ''appropriate Federal banking agency.'' As a result, when the FDIC acts as the appropriate Federal banking agency (or under similar terminology) for State savings associations, as it does here, the FDIC is authorized to issue, modify, and rescind regulations involving such associations, as well as for State nonmember banks and insured State-licensed branches of foreign banks.

As noted above, on June 14, 2011, operating pursuant to this authority, the Board issued a list of regulations of the former OTS that the FDIC would enforce with respect to State savings associations. On that same date, the Board reissued and redesignated certain regulations transferred from the former OTS. These transferred OTS regulations were published as new FDIC regulations in the **Federal Register** on August 5, 2011.[10] When the FDIC republished the transferred OTS regulations as new FDIC regulations, it specifically noted that its staff would evaluate the transferred OTS rules and might later recommend incorporating the transferred OTS regulations into other FDIC regulations, amending them, or rescinding them, as appropriate.[11]

B. Transferred OTS Regulations (Transferred to the FDIC's Part 390, Subpart M)

One of the regulations transferred to the FDIC from the OTS was former 12 CFR 557.20, concerning the maintenance of deposit records by State savings associations.[12] That provision was transferred to the FDIC and now comprises part 390, subpart M. The OTS had issued § 557.20 as part of a streamlining of its regulations in 1997.[13] At that time, the OTS regulations included several specific deposit recordkeeping requirements, and the OTS sought to replace those with one provision. In the associated NPR, the OTS explained that ''[a]s part of its reinvention effort, OTS is endeavoring to eliminate regulations that are outdated or micromanage thrift operations. For example, OTS proposes to replace several specific deposit-related recordkeeping requirements with a general recordkeeping regulation that is tied more closely to safety and soundness.'' [14]

C. Part 390, Subpart M—Deposits

The FDIC has conducted a careful review and comparison of part 390, subpart M and other Federal regulations and statutes concerning the maintenance of deposit records at State savings associations. As discussed in Part III of this Supplementary Information section, the FDIC proposes to rescind part 390, subpart M, because the FDIC considers the provisions contained in part 390, subpart M to be unnecessary in light of the applicability of other provisions of Federal statutes and regulations.

[1] Public Law 111–203, 124 Stat. 1376 (2010).

[2] Codified at 12 U.S.C. 5411.

[3] Codified at 12 U.S.C. 5414(b).

[4] Codified at 12 U.S.C. 5414(c).

[5] 76 FR 39246 (July 6, 2011).

[6] Codified at 12 U.S.C. 5412(b)(2)(B)(i)(II).

[7] 12 U.S.C. 1811 *et seq.*

[8] Codified at 12 U.S.C. 5412(c)(1).

[9] 12 U.S.C. 1813(q).

[10] 76 FR 47652 (Aug. 5, 2011).

[11] *See* 76 FR 47653.

[12] *See* 76 FR 47659.

[13] 62 FR 55759 (Oct. 22, 1997).

[14] 62 FR 15627 (Apr. 2, 1997).

III. Comparison of Other Applicable Statutes and Regulations With the Transferred OTS Regulations To Be Rescinded

The following is a description of existing statutes and regulations that would provide for complete and accurate recordkeeping of deposits and account transactions at State savings associations, obviating the need for a new regulation or amendment of existing regulations upon rescission of part 390, subpart M. Accordingly, the FDIC proposes that §§ 390.230 and 390.231, part 390, subpart M, be rescinded as unnecessary, redundant of, or otherwise duplicative of the provisions of law delineated in 12 U.S.C. 1817(a)(9)); 31 CFR 1020.410(c)(2); 12 CFR part 364, Appendix A II; 12 CFR 330.1(e); and 12 CFR 1005, each discussed individually below.

A. Former OTS Safety and Soundness—Part 390, Subpart M, Sections 390.230 and 390.231

1. § 390.230—What does this subpart do?

Section 390.230 simply states that subpart M ''applies to the deposit activities of State savings associations.'' There is no substantively similar provision in the FDIC's regulations, nor is one necessary. Accordingly, the FDIC proposes that section 390.230 be rescinded.

2. § 390.231—What records should I maintain on deposit activities?

Former OTS § 557.20, as modified by the FDIC in transferred § 390.231, provided general information on what records should be maintained by State savings associations on their deposit activities. Existing statutes and regulations that are applicable to State savings associations (discussed in greater detail below) already require the maintenance of accurate records of deposits and transactions by State savings associations.

B. Data Collection at Insured Depository Institutions

Section 7(a)(9) of the FDI Act [15] provides that ''the Corporation shall take such action as may be necessary to ensure that—(A) each insured depository institution maintains; and (B) the Corporation receives on a regular basis from such institution, information on the total amount of all insured deposits, preferred deposits, and uninsured deposits at the institution.'' In issuing regulations under that statutory provision, the FDIC has stated that the agency ''has a right and a duty'' under § 7(a)(9) to require the maintenance of accurate deposit account records and that ''requiring covered institutions to maintain complete and accurate records regarding the ownership and insurability of deposits . . . will facilitate the FDIC's prompt payment of deposit insurance and enhance the ability to implement the least costly resolution of these institutions.'' [16] Due to the requirements for accurate recordkeeping pursuant to its existing statutory authority, the FDIC takes the position that no new regulation will be needed upon the rescission of part 390, subpart M.

C. Treasury Department Bank Secrecy Act Regulations [17]

Section 1020.410(c)(2) of title 31, Code of Federal Regulations (CFR), requires banks (defined to include savings associations) [18] to maintain certain records, including ''[e]ach statement, ledger card or other record on each deposit or share account, showing each transaction in, or with respect to, that account.'' This rule specifically requires that such records be maintained at State savings associations, rather than the merely suggestive language included in part 390, subpart M.

D. Activities Implicating Safety and Soundness; Part 364 [19]

In 1995, the FDIC published 12 CFR 364 as a final rule with an appendix that implements section 39(a) of the FDI Act [20] regarding standards for safety and soundness (Appendix A).[21] The OCC, the FRB, and the OTS also issued their versions of Appendix A.[22] The FDIC's Appendix A II (Operational and Managerial Standards) provides that an institution should have internal controls and information systems that are appropriate to the size of the institution and the nature, scope, and risk of its activities and that provide for, among other things: ''timely and accurate financial, operational and regulatory reports.'' An Appendix B (regarding information security) was also published to implement § 39 of the FDI Act.[23] Section 364.101 of part 364 provides that Appendix A and Appendix B apply to all insured State nonmember banks, State-licensed insured branches of foreign banks, and State savings associations. FDIC-supervised institutions are required to file quarterly Reports of Condition.[24] In addition, the accounting principles applicable to reports or statements that insured depository institutions file with the Federal banking agencies are required to be uniform and consistent with generally accepted accounting principles.[25]

Taken together, part 364 and appendix A constitute the FDIC's long-standing expectations for all prudently managed insured depository institutions, but leave specific methods of achieving these objectives to each institution. Specifically, they provide a framework for sound corporate governance and the supervision of operations designed to prompt an institution to identify emerging problems and correct deficiencies before capital becomes impaired. Pursuant to § 39(e) of the FDI Act,[26] an FDIC-supervised institution's failure to meet the standards may cause the FDIC to require the institution to submit a safety and soundness compliance plan, and if the institution does not comply with its plan, the FDIC will issue an order to correct safety and soundness deficiencies.[27] Hence, in order to accurately report their financial condition, including deposit liabilities, and to meet applicable safety and soundness criteria, insured depository institutions, including State savings associations, must keep accurate and up-to-date records of account transactions and balances.

E. FDIC's Deposit Insurance Coverage Criteria [28]

Part 330 of the FDIC's regulations governs the criteria for deposit insurance coverage at insured depository institutions, including

[15] 12 U.S.C. 1817(a)(9).

[16] 81 FR 87735.

[17] 31 CFR 1020.

[18] 31 CFR 1010.100(d)(3).

[19] 12 CFR part 364, Appendix A II.

[20] 12 U.S.C. 1831p–1. § 132 of the Federal Deposit Insurance Corporation Improvement Act of 1991, Public Law 102–242, 105 Stat. 2236 (codified at 12 U.S.C. 1831p–1) added § 39 to the FDI Act. § 39 was later amended by § 956 of the Housing and Community Development Act of 1992, Public Law 102–550, 106 Stat. 3672, and § 318 of the Riegle Community Development and Regulatory Improvement Act of 1994, Public Law 103–325, 108 Stat. 2160.

[21] 60 FR 35674 (July 10, 1995).

[22] *See* 12 CFR part 30, Appendix A, 60 FR 35678; 12 CFR part 208, Appendix D–1, 60 FR 35682; (former) 12 CFR part 570, Appendix A, 60 FR 35687, respectively (July 10, 1995).

[23] Appendix B was added in accordance with section 501 of the Gramm-Leach-Bliley Financial Modernization Act of 1999, Public Law 106–102, 113 Stat. 1338, codified at 15 U.S.C. 6801, which statute required the agencies to establish appropriate information security standards in order to protect nonpublic personal information.

[24] 12 U.S.C. 1817(a)(3)–(6); 12 U.S.C. 1464(v).

[25] 12 U.S.C. 1831n.

[26] 12 U.S.C. 1831p–1(e).

[27] *See* 12 U.S.C. 1831p–1(e); 12 CFR 308.300, *et seq.*

[28] 12 CFR 330.

insured State savings associations. Section 330.3(h) of part 330 states that deposit insurance coverage is ''a function of the deposit account records of the insured depository . . . which, in the interest of uniform national rules for deposit insurance coverage, are controlling for purposes of determining deposit insurance coverage.'' Further, § 330.1(e) defines the term ''deposit account records'' to include documents such as ''account ledgers . . . and other books and records of the insured depository institution . . . which relate to the insured depository institution's deposit taking function.'' This existing regulation on criteria for deposit insurance would also require State savings associations to maintain records of their deposit transactions, eliminating the need for part 390, subpart M.

F. Bureau of Consumer Financial Protection—Regulation E

Regulation E,[29] issued by the Bureau of Consumer Financial Protection, relates to electronic fund transfers at financial institutions, including any savings association.[30] It states that ''[f]or an account to or from which electronic fund transfers can be made, a financial institution shall send a periodic statement for each monthly cycle in which an electronic fund transfer has occurred; and shall send a periodic statement at least quarterly if no transfer has occurred.'' [31] Thus, in order to comply with existing Regulation E, a State savings association must be capable of generating periodic statements for each of its deposit accounts, whether or not electronic transfers are made from that account, again serving the intended purpose of part 390, subpart M.

Accordingly, as explained in the analysis above, the FDIC proposes to remove §§ 390.230 and 390.231, subpart M because these sections are unnecessary, redundant of, or otherwise duplicative of the safety and soundness and other standards described above.

IV. Proposed Amendment to Part 390, Subpart M

As discussed in part III of this Supplementary Information, the FDIC's part 390, subpart M addresses the maintenance of records of deposit transactions and activities for State savings associations. To remove unnecessary and redundant regulations, one of the stated policy goals of the FDIC, the FDIC proposes to rescind part 390, subpart M as unnecessary and redundant of other applicable statutes and regulations. Under the proposal, subpart M would be rescinded and that subpart reserved for future use.

V. Expected Effects

As explained in detail in Section III of this Supplemental Information section, certain OTS regulations transferred to the FDIC by the Dodd-Frank Act relating to records of deposit transactions and activities are either unnecessary or effectively duplicate existing regulations. This proposal would eliminate one of those transferred OTS regulations.

As of March 31, 2019, the FDIC supervises 3,465 insured depository institutions, of which 39 (1.1%) are State savings associations.[32] The proposed rule primarily would affect regulations that govern State savings associations.

As explained previously, the proposed rule would remove §§ 390.230 and 390.231, subpart M, because these sections are unnecessary, redundant of, or otherwise duplicative of other statutes and regulations, including those relating to safety and soundness. Because these regulations are redundant, rescinding them will not have any substantive effects on FDIC-supervised institutions.

The FDIC invites comments on all aspects of this analysis. In particular, would the proposed rule have any costs or benefits to covered entities that the FDIC has not identified?

VI. Alternatives

The FDIC has considered alternatives to the proposed rule but believes that the proposed amendments represent the most appropriate option for covered institutions. As discussed previously, the Dodd-Frank Act transferred certain powers, duties, and functions formerly performed by the OTS to the FDIC. The FDIC's Board reissued and redesignated certain transferred regulations from the OTS, but noted that it would evaluate them and might later incorporate them into other FDIC regulations, amend them, or rescind them, as appropriate. The FDIC has evaluated the existing regulations relating to the maintenance of deposit account records. The FDIC considered the status quo alternative of retaining the current regulations, but did not choose to do so. The FDIC believes it would be procedurally complex for FDIC-supervised institutions to continue to refer to these separate sets of regulations, and therefore proposes to amend and streamline them in accordance with this proposed rulemaking.

VII. Request for Comments

The FDIC invites comments on all aspects of this proposed rulemaking. In particular, the FDIC requests comments on the following questions:

1. Are the provisions of 12 CFR parts 330; 364, Appendix A; and 1005 and 31 CFR part 1020 sufficient to provide consistent and effective requirements related to the maintenance of records of deposit account activities at State savings associations for which the FDIC is the appropriate Federal banking agency? Please provide examples, data, or otherwise substantiate your answer.

2. What negative impacts, if any, can you foresee in the FDIC's proposal to rescind part 390, subpart M?

3. Are existing statutory and regulatory requirements relating to the maintenance of records of account transactions and deposits sufficient to ensure the safety and soundness of insured State savings associations? Please provide examples, data, or otherwise substantiate your answer.

4. Please provide any other comments you may have on the proposal.

Written comments must be received by the FDIC not later than September 25, 2019.

VIII. Regulatory Analysis and Procedure

A. The Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA),[33] the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The proposed rule would rescind and remove from FDIC regulations part 390, subpart M. The proposed rule will not create any new or revise any existing collections of information under the PRA. Therefore, no information collection request will be submitted to the OMB for review.

B. The Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires that, in connection with a notice of proposed rulemaking, an agency prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of the proposed rule on small entities.[34] However, a regulatory

[29] 12 CFR part 1005.

[30] 12 CFR 1005.2(i).

[31] 12 CFR 1005.9(b).

[32] Based on data from the March 31, 2019, Consolidated Reports of Condition and Income (Call Report) and Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks.

[33] 44 U.S.C. 3501–3521.

[34] 5 U.S.C. 601, *et seq.*

flexibility analysis is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities, and publishes its certification and a short explanatory statement in the **Federal Register**, together with the rule. The Small Business Administration (SBA) has defined ''small entities'' to include banking organizations with total assets of less than or equal to $550 million.[35] Generally, the FDIC considers a significant effect to be a quantified effect in excess of 5 percent of total annual salaries and benefits per institution, or 2.5 percent of total noninterest expenses. The FDIC believes that effects in excess of these thresholds typically represent significant effects for FDIC-supervised institutions. For the reasons provided below, the FDIC certifies that the proposed rule, if adopted in final form, would not have a significant economic impact on a substantial number of small banking organizations. Accordingly, a regulatory flexibility analysis is not required.

As of March 31, 2019, the FDIC supervised 3,465 insured depository institutions, of which 2,645 are considered small banking organizations for the purposes of RFA. The proposed rule primarily affects regulations that govern State savings associations. There are 38 State savings associations considered to be small banking organizations for the purposes of the RFA.[36]

As explained previously, the proposed rule would remove §§ 390.230 and 390.231, part 390, subpart M, because these sections are unnecessary, redundant of, or otherwise duplicative of other statutes and regulations, including safety and soundness standards. Therefore, rescinding subpart M would not have any substantive effects on small FDIC-supervised institutions.

Based on the information above, the FDIC certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities. The FDIC invites comments on all aspects of the supporting information provided in this RFA section. In particular, would this rule have any significant effects on small entities that the FDIC has not identified?

C. Plain Language

Section 722 of the Gramm-Leach-Bliley Act[37] requires each Federal banking agency to use plain language in all of its proposed and final rules published after January 1, 2000. As a Federal banking agency subject to the provisions of this section, the FDIC has sought to present the proposed rule to rescind part 390, subpart M in a simple and straightforward manner. The FDIC invites comments on whether the proposal is clearly stated and effectively organized, and how the FDIC might make the proposal easier to understand.

D. Riegle Community Development and Regulatory Improvement Act of 1994

The Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA) requires that each Federal banking agency, in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, new regulations and amendments to regulations that impose additional reporting, disclosure, or other new requirements on insured depository institutions generally must take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form.[38] The FDIC invites comments that further will inform its consideration of RCDRIA.

E. The Economic Growth and Regulatory Paperwork Reduction Act

Under § 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA), the FDIC is required to review all of its regulations at least once every 10 years, in order to identify any outdated or otherwise unnecessary regulations imposed on insured institutions.[39] The FDIC, along with the other Federal banking agencies, submitted a Joint Report to Congress on March 21, 2017, (EGRPRA Report) discussing how the review was conducted, what has been done to date to address regulatory burden, and further measures that will be taken to address issues that were identified. As noted in the EGRPRA Report, the FDIC is continuing to streamline and clarify its regulations through the OTS rule integration process. By removing outdated or unnecessary regulations, such as part 390, subpart M, this rule complements other actions the FDIC has taken, separately and with the other Federal banking agencies, to further the EGRPRA mandate.

List of Subjects in 12 CFR Part 390

Administrative practice and procedure, Advertising, Aged, Civil rights, Conflict of interests, Credit, Crime, Equal employment opportunity, Fair housing, Government employees, Individuals with disabilities, Reporting and recordkeeping requirements, Savings associations.

Authority and Issuance

For the reasons stated in the preamble, the Federal Deposit Insurance Corporation proposes to amend 12 CFR 390 as follows:

PART 390—REGULATIONS TRANSFERRED FROM THE OFFICE OF THRIFT SUPERVISION

■ 1. Revise the authority citation for part 390 to read as follows:

Authority: 12 U.S.C. 1819.

Subpart F also issued under 5 U.S.C. 552; 559; 12 U.S.C. 2901 *et seq.*

Subpart G also issued under 12 U.S.C. 2810 *et seq.,* 2901 *et seq.;* 15 U.S.C. 1691; 42 U.S.C. 1981, 1982, 3601–3619.

Subpart O also issued under 12 U.S.C. 1828.

Subpart Q also issued under 12 U.S.C. 1462; 1462a; 1463; 1464.

Subpart R also issued under 12 U.S.C. 1463; 1464; 1831m; 1831n; 1831p–1.

Subpart S also issued under 12 U.S.C. 1462; 1462a; 1463; 1464; 1468a; 1817; 1820; 1828; 1831e; 1831o; 1831p–1; 1881–1884; 3207; 3339; 15 U.S.C. 78b; 78l; 78m; 78n; 78p; 78q; 78w; 31 U.S.C. 5318; 42 U.S.C. 4106.

Subpart T also issued under 12 U.S.C. 1462a; 1463; 1464; 15 U.S.C. 78c; 78l; 78m; 78n; 78w.

Subpart W also issued under 12 U.S.C. 1462a; 1463; 1464; 15 U.S.C. 78c; 78l; 78m; 78n; 78p; 78w.

Subpart Y also issued under 12 U.S.C. 1831o.

[35] The SBA defines a small banking organization as having $550 million or less in assets, where ''a financial institution's assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.'' See 13 CFR 121.201 (as amended, effective December 2, 2014). ''SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates.'' See 13 CFR 121.103. Following these regulations, the FDIC uses a covered entity's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the FDIC-supervised institution is ''small'' for the purposes of RFA.

[36] Based on data from the March 31, 2019, Call Report and Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks.

[37] Public Law 106–102, 113 Stat. 1338, 1471 (codified at 12 U.S.C. 4809).

[38] 12 U.S.C. 4802.

[39] Public Law 104–208, 110 Stat. 3009 (1996).

■ 2. Remove and reserve part 390, subpart M, consisting of §§ 390.230 and 390.231.

Subpart M—[Removed and Reserved]

* * * * *

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on August 20, 2019.

Valerie Best,

Assistant Executive Secretary.

[FR Doc. 2019–18268 Filed 8–23–19; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0609; Product Identifier 2019–NM–054–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus SAS Model A350–941 airplanes. This proposed AD was prompted by a report of dislodged passenger door girt bars. This proposed AD would require modification of the girt bar retention mechanism of the affected doors, as specified in a European Union Aviation Safety Agency (EASA) AD, which will be incorporated by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by October 10, 2019.

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

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

For the material identified in this proposed AD that will be incorporated by reference (IBR), contact the EASA, at Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 1000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Transport Standards 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 in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0609.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0609; 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 NPRM, the regulatory evaluation, 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: Kathleen Arrigotti, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2019–0609; Product Identifier 2019–NM–054–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM based on those comments.

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

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0076, dated March 29, 2019 (''EASA AD 2019–0076'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A350–941 airplanes. The MCAI states:

> In-service events of passenger door girt bar dislodgement have been reported by A350 operators. Further investigations revealed that the most likely causes of these events are closing of a door with excessive force, or interference with girt bar during on-ground service activities, or a combination of these.
>
> This condition, if not corrected, could lead to the functional loss of the affected door slide, possibly preventing safe evacuation of aeroplane occupants during an emergency.
>
> To address this potential unsafe condition, Airbus developed production mod 112115 to reinforce the girt bar retention, and published the applicable SB [service bulletin] to provide instructions for in-service modification.
>
> Following issuance of the applicable SB at original issue and Revision 01, Airbus published SBIT 19–0010 to inform operators about the correct nut reference to be used for installation of the doors 1, 2, 3 and 4, LH [left-hand] and RH [right-hand] for MSNs [manufacturer serial numbers] 0005 to 0058 and to clarify the additional placard marking procedure.
>
> For the reasons described above, this [EASA] AD requires modification of girt bar retention mechanism of the affected doors.

Related IBR Material Under 1 CFR Part 51

EASA AD 2019–0076 describes procedures for modification of the girt bar retention mechanism of the affected doors.

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

FAA's Determination and Requirements of This Proposed AD

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2019–0076 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. As a result, EASA AD 2019–0076 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with the provisions specified in EASA AD 2019–0076, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2019–0076 that is required for compliance with EASA AD 2019–0076 will be available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0609 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this proposed AD affects 12 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
52 work-hours × $85 per hour = $4,420	$90,000	$94,420	$1,133,040

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.

This proposed AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes and associated appliances to the Director of the System Oversight Division.

Regulatory Findings

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

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

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

2. 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.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus SAS: Docket No. FAA–2019–0609; Product Identifier 2019–NM–054–AD.

(a) Comments Due Date

The FAA must receive comments by October 10, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS Model A350–941 airplanes, certificated in any category.

(d) Subject

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

(e) Reason

This AD was prompted by a report of dislodged passenger door girt bars. The FAA is issuing this AD to address dislodged girt bars, which could result in functional loss of the affected door slide and possibly prevent safe evacuation during an emergency.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2019–0076, dated March 29, 2019 (''EASA AD 2019–0076'').

(h) Exceptions to EASA AD 2019–0076

(1) For purposes of determining compliance with the requirements of this AD: Where EASA AD 2019–0076 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2019–0076 does not apply to this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards 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 International Section, send it to the attention of the person identified in paragraph (j)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* For any service information referenced in EASA AD 2019–0076 that contains RC procedures and tests: Except as required by paragraph (i)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

(1) For information about EASA AD 2019–0076, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 6017; email *ADs@easa.europa.eu;* Internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.* You may view this EASA AD at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. EASA AD 2019–0076 may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0609.

(2) For more information about this AD, contact Kathleen Arrigotti, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218.

Issued in Des Moines, Washington, on August 15, 2019.

Michael Millage,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–18287 Filed 8–23–19; 8:45 am]

BILLING CODE 4910–13–P

POSTAL SERVICE

39 CFR Part 265

Procedures for Disclosure of Records Under the Freedom of Information Act

AGENCY: Postal Service™.

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes to amend its Freedom of Information Act (''FOIA'') regulations regarding fee waivers. These changes would improve clarity and more closely align the regulations with both the relevant guidance from the Department of Justice's Office of Information Policy and the relevant statute.

DATES: Comments must be received on or before September 25, 2019.

ADDRESSES: Mail or deliver written comments to: Associate General Counsel and Chief Ethics & Compliance Officer, 475 L'Enfant Plaza SW, Room 6000, Washington, DC 20260–1135. Email and faxed comments are not accepted. You may inspect and photocopy all written comments, by appointment only, at USPS® Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor North, Washington, DC 20260. These records are available for review on Monday through Friday, 9 a.m.–4 p.m., by calling 202–268–2904. All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Ruth B. Stevenson, Attorney, Federal Compliance, *ruth.b.stevenson@usps.gov,* 202–268–6627.

SUPPLEMENTARY INFORMATION: The Postal Service proposes to amend 39 CFR part 265 to improve clarity and to more closely align the regulations with both the relevant guidance from the Department of Justice's Office of Information Policy and the relevant statute, 5 U.S.C. 552(a)(4)(A)(iii). The portion of the regulations being amended concerns fee waivers. Generally speaking, fees for a FOIA request will be waived ''if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.'' 5 U.S.C. 552(a)(4)(A)(iii). The guidance from the Department of Justice elucidates a six-factor test from this rule—two of which of which relate to the commercial interest of the requester. The amendment to 39 CFR 265.9(j)(3)(i) clarifies that the first commercial interest factor is to determine whether a commercial interest exists. The amendment to 39 CFR 265.9(j)(3)(ii) incorporates the balancing test from the statute as the second part of the commercial interest factor, along with adding a presumption concerning news media requesters.

List of Subjects in 39 CFR Part 265

Administrative practice and procedure, Courts, Freedom of information, Government employees.

For the reasons stated in the preamble, the Postal Service proposes to amend 39 CFR chapter I as follows:

PART 265—[AMENDED]

■ 1. The authority citation for part 265 continues to read as follows:

Authority: 5 U.S.C. 552; 5 U.S.C. App. 3; 39 U.S.C. 401, 403, 410, 1001, 2601; Pub. L. 114–185.

■ 2. Amend § 265.9 to revise paragraphs (j)(3)(i) and (ii) to read as follows:

§ 265.9 Fees.

* * * * *

(j) * * *

(3) * * *

(i) Whether there is a commercial interest, as defined in paragraph (b)(1) of this section, that would be furthered by the requested disclosure. If so, then the requester will be given an opportunity to provide explanatory information regarding this consideration.

(ii) Whether any identified commercial interest of the requester in disclosure outweighs the public interest, as defined in paragraph (j)(1)(i) of this section, in disclosure. If so, then the disclosure is ''primarily in the commercial interest of the requester.'' The component ordinarily shall presume that if a news media requester has satisfied the public interest standard, the public interest is the primary interest served by the requested disclosure. Disclosure to data brokers or others who merely compile and market government information for direct

economic return shall not be presumed to primarily serve the public interest.

* * * * *

Ruth Stevenson,

Attorney, Federal Compliance.

[FR Doc. 2019–18326 Filed 8–23–19; 8:45 am]

BILLING CODE 7710–12–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 2

[SAMHSA–4162–20]

RIN 0930–AA30

Confidentiality of Substance Use Disorder Patient Records

AGENCY: Substance Abuse and Mental Health Services Administration (SAMHSA), U.S. Department of Health and Human Services (HHS).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: HHS proposes to amend its Confidentiality of Substance Use Disorder Patient Records regulation, to clarify one of the conditions under which a court may authorize disclosure of confidential communications made by a patient to a part 2 program as defined in this regulation. This change will clarify that a court may authorize disclosure of confidential communications when the disclosure is necessary in connection with investigation or prosecution of an extremely serious crime, even if the extremely serious crime was not allegedly committed by the patient.

DATES: To be assured consideration, comments must be received at one of the addresses provided below no later than 5 p.m. on September 25, 2019.

ADDRESSES: You may submit comments, identified by Regulatory Information Number (RIN) 0930–AA30, by any of the following methods. Please submit your comments in only one of these ways to minimize the receipt of duplicate submissions.

1. Federal eRulemaking Portal: You may submit comments electronically at *http://www.regulations.gov.* Follow the instructions for submitting comments. This is the preferred method for the submission of comments.

2. Mail: Written comments must be sent to the following address: Attn: Mitchell Berger, SAMHSA, 5600 Fishers Lane, Room 18E89C, Rockville, Maryland 20857; or Suzette Brann, SAMHSA, 5600 Fishers Lane, Room 13E01B, Rockville, Maryland.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

Inspection of Public Comments: All comments received before the close of the comment period will be available to the public in their entirety including any personally identifiable and/or confidential information. Submitted comments may be inspected on *http://www.regulations.gov* or in-person, by appointment (Monday through Friday from 8:30 a.m. to 4 p.m.), at the headquarters of the SAMHSA, 5600 Fishers Lane, Rockville, Maryland 20857. To schedule an appointment to view submitted comments at SAMHSA's headquarters, contact Mitchell Berger at (240) 276–1757 or Suzette Brann at (240) 276–1252.

FOR FURTHER INFORMATION CONTACT: Mitchell Berger at (240) 276–1757 or Suzette Brann at (240) 276–1252 or by email at: *PrivacyRegulations@samhsa.hhs.gov.*

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I. Legal Authority

HHS is proposing this rule under the authority of 42 U.S.C. 290dd–2.

II. Background and Summary

On January 18, 2017, HHS published a final rule (*82 FR 6052*) (2017 final rule) that made certain changes to the regulations governing the confidentiality of substance use disorder patient records at 42 CFR part 2 (part 2). The part 2 regulations apply to part 2 programs. Briefly, as stated in the 2017 final rule, SAMHSA defines a part 2 program as a federally assisted program (federally assisted as defined in § 2.12(b) and program as defined in § 2.11). See § 2.12(e)(1) for examples.[1]

HHS did not intend in the 2017 final rule to substantively revise the provision of part 2 governing confidential communications that appears in § 2.63. However, the phrase ''allegedly committed by the patient'' was erroneously added to § 2.63(a)(2) in the 2017 final rule. The fact that the preamble of the 2017 final rule did not address that change, or explain its intended reasoning, indicates that no substantive change was intended. What is more, since publication of the 2017 final rule, it has come to our attention that the erroneous addition of the phrase ''allegedly committed by the patient'' may hinder federal enforcement efforts targeted at rogue doctors and pill mills that have contributed to the opioid crisis.

The prompt revision of this rule is necessary to help address one of the largest drug crises in the nation's history. HHS and the U.S. Department of Justice (DOJ) have developed extensive information concerning the nature and magnitude of the crisis.[2] In particular, former HHS Acting Secretary Eric Hargan declared a public health emergency on October 26, 2017, to address the national opioid crisis and, most recently, HHS Secretary Alex Azar renewed that declaration on July 23, 2018. The proposed correction of the part 2 rule would help to address this public health emergency by facilitating the prompt investigation and prosecution, if warranted, of opioid-related crimes allegedly committed by individuals other than patients. Specifically, this proposed rule would correct the error by removing the phrase ''allegedly committed by the patient'' from § 2.63(a)(2). SAMHSA believes that this rule, if adopted as proposed, will not have an additional impact on part 2 programs or others as section 2.63 would revert to the pre-2017 language.

III. Proposed Rule

HHS proposes to amend § 2.63(a)(2) by deleting the phrase ''allegedly committed by the patient'' that was erroneously added in the 2017 final rule.

Under this proposal, the text would revert to the language that appeared in the part 2 rule since 1987.[3]

This proposed change is further compelled by the opioid crisis, which was declared a public health emergency by the former Acting Secretary of HHS, pursuant to section 319 of the Public

[1] (See 82 FR 6052, 6061 (January 18, 2017)).

[2] See, *e.g.,* Department of Health and Human Services (October 26, 2017). HHS Acting Secretary Declares Public Health Emergency to Address National Opioid Crisis. Retrieved from *www.hhs.gov/about/news/2017/10/26/hhs-acting-secretary-declares-public-health-emergency-address-national-opioid-crisis.html;* Centers for Disease Control and Prevention (n.d.). Retrieved from *www.cdc.gov/drugoverdose/data;* Centers for Disease Control and Prevention, National Center for Health Statistics (December 2017). Drug Overdose Deaths in the United States, 1999–2016. Retrieved from *www.cdc.gov/nchs/products/databriefs/db294.htm;* Substance Abuse and Mental Health Services Administration (September 2017). Key Substance Use and Mental Health Indicators in the United States: Results from the 2016 National Survey on Drug Use and Health. Retrieved from *www.samhsa.gov/data/sites/default/files/NSDUH-FFR1-2016/NSDUH-FFR1-2016.pdf;* National Institute on Drug Abuse (March 2018). Opioid Overdose Crisis. Retrieved from *www.drugabuse.gov/drugs-abuse/opioids/opioid-overdose-crisis;* Drug Enforcement Administration, 2017 National Drug Threat Assessment (Oct. 2017), at v, 25–43.

[3] See 52 FR 21796.

Health Service Act, 42 U.S.C. 247d and renewed by HHS Secretary Azar. According to the Centers for Disease Control and Prevention, as many as 350,000 Americans have died from an opioid overdose between 1999 and 2016.[4] A November 2017 report from the President's Council of Economic Advisors entitled ''The Underestimated Costs of the Opioid Crisis'' estimates that in 2015, the economic cost of the opioid crisis was $504 billion, or 2.8 percent of Gross Domestic Product that year.[5] The President's Commission on Combatting Drug Addiction and the Opioid Crisis in its 2017 final report identifies the gravity of the opioid crisis and notes the importance of a comprehensive effort by federal partners, including DOJ and the Drug Enforcement Administration, to address this crisis.[6]

As demand for treatment increases and new entities become part 2 programs, the need to prevent drug trafficking and patient exploitation at or by part 2 programs makes it imperative to correct the error in § 2.63(a)(2), which if left in its current form could be interpreted to hamper or impede federal enforcement efforts, in situations where malfeasance by a patient is not involved, but access to covered records may be necessary for investigatory and enforcement purposes. The proposed correction to § 2.63(a)(2) is necessary to encourage valid enforcement efforts in the fight to address the opioid crisis, including investigations that involve disclosures of part 2 program records authorized by court orders under Subpart E of 42 CFR part 2. HHS believes reverting to the previous language for this section is necessary to help reduce and deter drug trafficking at or from part 2 programs, and thereby to prevent the occurrence of extremely serious crimes from interfering with the delivery by part 2 programs of high quality, medically necessary treatment to patients with substance use disorders.

It may be necessary to examine confidential communications of a part 2 program to investigate and prosecute, if warranted, individuals other than a patient who engage in drug trafficking related to the drug abuse crisis. Specifically, these records may be necessary to establish that the part 2 program or an affiliated medical professional is trafficking drugs rather than providing appropriate treatment for substance abuse. Accordingly, HHS proposes to amend the text of § 2.63(a)(2) to remove the phrase ''allegedly committed by a patient.''

IV. Regulatory Impact Analysis

HHS has examined the impacts of this proposed rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (Pub. L. 96–354), the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), and Executive Order 13771 on Reducing Regulation and Controlling Regulatory Costs (January 30, 2017). HHS does not believe the proposed change constitutes an unfunded mandate, additional regulatory activity or imposes a cost or economic burden on part 2 programs.

Executive Orders 12866, 13563, 13132, and 13771

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects; distributive impacts; and equity). Executive Order 13563 is supplemental to, and reaffirms the principles, structures, and definitions governing regulatory review, as established in Executive Order 12866. The proposed changes in this rule will not have an annual effect on the economy of $100 million or more in at least one year. HHS notes that these proposed changes do not characterize a significant regulatory action under Executive Order 12866. The proposed change to 2.63 has no discernible economic impact, is consistent with the policies of such agencies as the Department of Justice, does not alter program budgets or obligations of grant or loan recipients and raises no novel legal or policy questions. Indeed, as explained, this rule reverts to the pre-2017 language for this section, which had remained unchanged for more than 30 years.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has Federalism implications. This rule does not impose any costs on state or local governments, therefore, the requirements of Executive Order 13132 are not applicable.

Executive Order 13771 directs Agencies to identify at least two existing regulations to repeal for every new regulation unless prohibited by law. The total incremental cost of all regulations issued in a given fiscal year must have costs within the amount of incremental costs allowed by the Director of the Office of Management and Budget, unless otherwise required by law or approved in writing by the Director of the Office of Management and Budget. This proposed rule is not expected to lead to the promulgation of a rule constituting a ''regulatory action'' under Executive Order 13771.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires agencies that issue a regulation to analyze options for regulatory relief of small businesses if a rule has a significant impact on a substantial number of small entities. The RFA generally defines a ''small entity'' as (1) a proprietary firm meeting the size standards of the Small Business Administration; (2) a nonprofit organization that is not dominant in its field; or (3) a small government jurisdiction with a population of less than 50,000. (States and individuals are not included in the definition of ''small entity''). For similar rules, HHS considers a rule to have a significant economic impact on a substantial number of small entities if at least five percent of small entities experience an impact of more than three percent of revenue. HHS determines that this proposed rule does not have a significant economic impact on a substantial number of small entities. The proposed rule would merely correct an erroneous change made in 2017 to the longstanding regulations in 42 CFR 2.63, in order to avoid a possible interpretation that could hamper or impede federal enforcement efforts in the fight to address the opioid crisis, including investigations that involve disclosures of part 2 program records authorized by court orders.

Unfunded Mandates Reform Act

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate,

[4] Centers for Disease Control and Prevention (n.d.). Understanding the Epidemic. Retrieved from *https://www.cdc.gov/drugoverdose/epidemic/index.html*.

[5] The Council of Economic Advisers (2017). Retrieved from *https://www.whitehouse.gov/sites/whitehouse.gov/files/images/The%20Underestimated%20Cost%20of%20the%20Opioid%20Crisis.pdf*.

[6] Office of National Drug Control Policy (n.d.). Retrieved from *https://www.whitehouse.gov/ondcp/presidents-commission/*.

or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' In 2018 that threshold level is approximately $150 million. HHS does not expect the proposed rule to exceed the threshold.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), agencies are required to provide a 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. The change proposed in this rulemaking would result in no new reporting burdens. Comments are welcome on the accuracy of this statement.

Congressional Review Act

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).''

List of Subjects in 42 CFR Part 2

Alcohol abuse, Alcoholism, Drug abuse, Grant programs—Health, Health records, Privacy, Reporting, and Recordkeeping requirements.

For the reasons stated in the preamble, HHS proposes to amend 42 CFR part 2 as follows:

PART 2—CONFIDENTIALITY OF SUBSTANCE USE DISORDER PATIENT RECORDS

1. The authority citation for part 2 continues to read follows:

Authority: 42 U.S.C. 290dd–2.

Subpart E—Court Orders Authorizing Disclosure and Use

§ 2.63 [Amended]

2. Amend § 2.63(a)(2) by removing the phrase ''allegedly committed by the patient''.

Dated: August 1, 2019.

Elinore F. McCance-Katz,

Assistant Secretary for Mental Health and Substance Use, Substance Abuse and Mental Health Services Administration.

Alex M. Azar II,

Secretary.

[FR Doc. 2019–17816 Filed 8–22–19; 4:15 pm]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 2

[SAMHSA–4162–20]

RIN 0930–AA32

Confidentiality of Substance Use Disorder Patient Records

AGENCY: Substance Abuse and Mental Health Services Administration (SAMHSA), U.S. Department of Health and Human Services (HHS).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice of proposed rulemaking proposes changes to the Confidentiality of Substance Use Disorder Patient Records regulations. These proposals were prompted by the need to continue aligning the regulations with advances in the U.S. health care delivery system, while retaining important privacy protections for individuals seeking treatment for substance use disorders (SUDs). SAMHSA strives to facilitate information exchange for safe and effective substance use disorder care, while addressing the legitimate privacy concerns of patients seeking treatment for a substance use disorder. Within the constraints of the statute, these proposals are also an effort to make the regulations more understandable and less burdensome.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on October 25, 2019.

ADDRESSES: In commenting, please refer to file code SAMHSA 4162–20. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (to avoid duplication, please submit your comments in only one of the ways listed):

1. *Electronically. Federal eRulemaking Portal.* You may submit comments electronically to *http://www.regulations.gov*. Follow the ''Submit a comment'' instructions.

2. *By regular mail.* Written comments mailed by regular mail must be sent to the following address ONLY: The Substance Abuse and Mental Health Services Administration, Department of Health and Human Services, Attention: SAMHSA—Deepa Avula, 5600 Fishers Lane, Room 17E41, Rockville, MD 20857.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* Written comments sent by express or overnight mail must be sent to the following address ONLY:

The Substance Abuse and Mental Health Services Administration, Department of Health and Human Services, Attention: SAMHSA—Deepa Avula, 5600 Fishers Lane, Room 17E41, Rockville, MD 20857.

4. *By hand or courier.* Written comments delivered by hand or courier must be delivered to the following address ONLY: The Substance Abuse and Mental Health Services Administration, Department of Health and Human Services, Attention: SAMHSA—Deepa Avula, 5600 Fishers Lane, Room 17E41, Rockville, MD 20857.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Ms. Deepa Avula, (240) 276–2542.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *http://www.regulations.gov*. Follow the search instructions on that website to view public comments.

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Acronyms

ADAMHA Alcohol, Drug Abuse, and Mental Health Administration

CFR Code of Federal Regulations
DEA Drug Enforcement Agency
DOJ Department of Justice
DS4P Data Segmentation for Privacy
EHR Electronic Health Record
FAX Facsimile
FDA Food and Drug Administration
FEMA Federal Emergency Management Agency
FR Federal Register
HHS Department of Health and Human Services
HIPAA Health Insurance Portability and Accountability Act of 1996
HIE Health Information Exchange
NPRM Notice of Proposed Rulemaking
ONC Office of the National Coordinator for Health Information Technology
OTP Opioid Treatment Program
OUD Opioid Use Disorder
PDMP Prescription Drug Monitoring Program
SAMHSA Substance Abuse and Mental Health Services Administration
SNPRM Supplemental Notice of Proposed Rulemaking
SUD Substance Use Disorder
U.S.C. United States Code

I. Background

The Confidentiality of Substance Use Disorder Patient Records regulations (42 CFR part 2) implement section 543 of the Public Health Service Act, 42 United States Code (U.S.C.) 290dd–2, as amended by section 131 of the Alcohol, Drug Abuse and Mental Health Administration Reorganization Act (ADAMHA Reorganization Act), Public Law, 102–321 (July 10, 1992). The regulations were originally issued to prevent access to patient records for the treatment of substance use disorder, in a time when there was not broader privacy and data security standard for health data Under the regulations, a ''substance use disorder'' is a defined term, which refers to a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using a substance despite significant substance-related problems such as impaired control, social impairment, risky use, and pharmacological tolerance and withdrawal. For the purposes of part 2, this definition does not include tobacco or caffeine use.

The regulations were first promulgated as a final rule in 1975 (40 FR 27802) and amended thereafter in 1987 (52 FR 21796) and 1995 (60 FR 22296). On February 9, 2016, SAMHSA published a notice of proposed rulemaking (NPRM) (81 FR 6988) (the ''2016 proposed rule''), inviting comment on proposals to update the regulations, to reflect the development of integrated health care models and the growing use of electronic platforms to exchange patient information, as well as the breadth of laws and regulatory actions implemented since 1975, that more broadly protect patient data, as patients and as consumers. At the same time, consistent with the statute, we (note that throughout this proposed rule, ''we'' refers to SAMHSA) wished to preserve confidentiality protections it establishes for patient identifying information from covered programs because persons with substance use disorders may encounter significant discrimination or experience other negative consequences if their information is improperly disclosed.

In response to public comments, on January 18, 2017, SAMHSA published a final rule (82 FR 6052) (the ''2017 final rule''), providing for greater flexibility in disclosing patient identifying information within the health care system, while continuing to protect the confidentiality of substance use disorder patient records. SAMHSA concurrently issued a supplemental notice of proposed rulemaking (SNPRM) (82 FR 5485) (the ''2017 proposed rule'') to solicit public comment on additional proposals. In response to public comments, SAMHSA subsequently published a final rule on January 3, 2018 (83 FR 239) (the ''2018 final rule'') that provided greater clarity regarding payment, health care operations, and audit or evaluation-related disclosures, and provided language for an abbreviated prohibition on re-disclosure notice.

In both the 2017 and 2018 final rules, SAMHSA signaled its intent to continue to monitor implementation of 42 CFR part 2, and to explore potential future rulemaking to better address the complexities of health information technology, patient privacy, and interoperability, within the constraints of the statute. The emergence of the opioid crisis, with its catastrophic impact on individuals, families, and caregivers, and corresponding clinical and safety challenges for providers, has highlighted the need for thoughtful updates to 42 CFR part 2. The laws and regulations governing the confidentiality of substance abuse records were originally written out of concern for the potential for misuse of those records against patients in treatment for a SUD, thereby undermining trust and leading individuals with substance use disorders not to seek treatment. As observed in the 1983 proposed rule, the purpose of 42 CFR part 2 is to ensure that patients receiving treatment for a substance use disorder in a part 2 program ''are not made more vulnerable to investigation or prosecution because of their association with a treatment program than they would be if they had not sought treatment'' (48 FR 38763).

In recent years, the devastating consequences of the opioid crisis have resulted in an unprecedented spike in overdose deaths related to both prescription and illegal opioids including heroin and fentanyl,[1] as well as correspondingly greater pressures on the SUD treatment system, and heightened demand for SUD treatment services. This proposed rule proposes changes to the regulation that SAMHSA believes would better align with the needs of individuals with SUD and of those who treat these patients in need, and help facilitate the provision of well-coordinated care, as while ensuring appropriate confidentiality protection for persons in treatment through part 2 programs.

II. Overview of the Proposed Regulations

Balancing the concerns noted above, SAMHSA proposes several changes to the regulations at 42 CFR part 2 (part 2). First, we propose to amend language throughout the regulation to clarify several aspects of the applicability and disclosure requirements. Specifically, in Section III.B., Applicability, SAMHSA proposes to amend § 2.12 to clearly state in the regulatory text that the recording of information about a SUD and its treatment by a non-part 2 entity does not, by itself, render a medical record subject to the restrictions of 42 CFR part 2, provided that the non-part 2 entity segregates any specific SUD records received from a part 2 program (either directly, or through another lawful holder). SAMHSA believes this proposed language would encourage part 2 programs and non-part 2 providers to deliver better and safer coordinated care, while also protecting the confidentiality of individuals seeking such care. SAMHSA explains this proposal more fully in Section III.B.

In addition, SAMHSA proposes several changes to 42 CFR part 2, consistent with the proposed policy described above. Specifically, in Section III.A., Definitions, we propose to amend and clarify the definition of ''Records'' in § 2.11, in a manner that aligns with the proposed revision to § 2.12 described above. And in Section III.D., Prohibition on Re-disclosure, SAMHSA proposes to amend the standard written notice in § 2.32, to clarify the disclosure and re-disclosure limits under 42 CFR part 2.

[1] Recent statistics published by the Centers for Disease Control and Prevention reflect a spike in the rate of opioid-related overdose deaths in recent years. See *https://www.cdc.gov/mmwr/volumes/67/wr/mm675152e1.htm?s_cid=mm675152e1_w.*

Additionally, SAMHSA seeks to reduce barriers to care coordination for patients with SUD, in Section III.F., Disclosure to Prevent Multiple Enrollments, by proposing to amend § 2.34 to allow non-opioid treatment providers (*e.g.,* non-part 2 providers who nevertheless manage care for patients with SUD from time to time) to access central registries. In Section III.G., Disclosure to Prescription Drug Monitoring Programs, SAMHSA proposes to add new § 2.36 to permit opioid treatment programs (OTPs) to disclose dispensing and prescribing data, as required by applicable state law, to prescription drug monitoring programs (PDMPs), subject to patient consent. As noted above, patient safety is of paramount importance, and many drugs prescribed and dispensed by non-OTPs could have life-threatening and even deadly consequences if not properly coordinated with those prescribed and dispensed by OTPs. Therefore, SAMHSA believes it necessary for both OTPs and non-OTPs to report, and to access, prescription drug records in central registries and PDMPs, and to monitor dosing accordingly.

SAMHSA also makes several proposals that specifically decrease burden for patients accessing care, without compromising patient confidentiality. First, in Section III.C., Consent Requirements, SAMHSA proposes to amend § 2.31, to allow patients to consent to the disclosure of their information to a wide range of entities, without naming the specific individual receiving this information on behalf of a given entity; special instructions would apply with respect to consents for disclosure of information to information exchanges and research institutions. We believe this proposal would give patients the ability to apply for and access federal, state, and local resources and benefits more easily, (*e.g.,* social security benefits; local sober living or halfway house programs). Second, in Section III.H., Medical Emergencies, SAMHSA proposes to amend to § 2.51 to allow disclosure of patient information to another part 2 program or other SUD treatment provider during State or Federally declared natural and major disasters. SAMHSA believes this proposal would reduce the burden of disclosure requirements both for patients to receive, and for clinicians to provide, care that may not be otherwise feasible during natural and major disasters, ensuring that patients can continue to receive on-going and appropriate care.

In Section III.E., Disclosures Permitted with Written Consent, SAMHSA proposes amendments to § 2.33 to expressly allow disclosure to specified entities and individuals for 17 types of payment and health care operational activities. Although SAMHSA believes these activities were already permitted by the regulation, we have received feedback from stakeholders that there remains some confusion on these points. Therefore, we believe it necessary to more clearly state this regulatory permission in the regulatory text, to avoid any further confusion. SAMHSA also proposes amendments to § 2.53 (Audit and Evaluation) together with clarifying guidance, under Section III.J. The amendments to § 2.53 would help to resolve confusion about permitted types of disclosures to and from federal, state and local governmental agencies and to and from third-party payers, for the purpose of audit and evaluation, among other changes. They would also allow patient identifying information to be disclosed to federal, state, and local agencies, and the contractors, subcontractors, and legal representatives of such agencies in the course of conducting audits or evaluations mandated by statute or regulation, if those audits or evaluations cannot be carried out using de-identified information. Likewise, in section III.I., Research, SAMHSA proposes to allow research disclosures of part 2 patient data by a HIPAA covered entity to individuals and organizations who are neither HIPAA covered entities, nor subject to the Common Rule, for the purpose of conducting scientific research. SAMHSA believes this change will better align the requirements of part 2, the Common Rule, and the Privacy Rule around the conduct of research on human subjects, and will help to streamline duplicative requirements for research disclosures under part 2 and the Privacy Rule in some instances. SAMHSA is also proposing to amend section § 2.52 (Research) to clarify that research disclosures may be made to members of the workforce of a HIPAA covered entity for purposes of employer-sponsored research, as well as to permit research disclosures to recipients who are covered by FDA regulations for the protection of human subjects in clinical investigations (at 21 CFR part 50).

In Section III.K., Orders Authorizing Use of Undercover Agents and Informants, SAMHSA proposes to revise our policies in § 2.67 for the placement of undercover agents and informants within a part 2 program, to provide more clarity regarding the permitted time period for placement pursuant to court order.

Finally, SAMHSA provides the following guidance on how employees, volunteers and trainees of part 2 facilities should handle communications using personal devices and accounts, especially in relation to § 2.19 concerning disposition of records by discontinued programs. In § 2.11, the current regulation defines ''Records'' to include information relating to a patient that could include email and texts. In § 2.19, the regulation codifies the requirements for disposition of records from a discontinued part 2 program. These requirements state that records which are electronic must be ''sanitized'' within one year of the discontinuation of the part 2 program. This sanitization must render the patient identifying information non-retrievable in accordance with § 2.16 (security for records). Read together, current §§ 2.11, 2.16, and 2.19 could be interpreted to mean that, if an individual working in a part 2 program receives a text or email from a patient on his or her personal phone which he or she does not use in the regular course of their employment in the part 2 program, and this part 2 program is discontinued, the personal device may need to be sanitized. Depending on the policies and procedures of the part 2 program, this sanitization may render the device no longer useable to that individual. SAMHSA clarifies that this interpretation is not the intent of the regulations.

Although SAMHSA does not encourage patient communication through personal email and cell phones, it recognizes that patients may make contact through the personal devices or accounts of an employee (or volunteer or trainee) of a part 2 program, even if the employee (or volunteer or trainee) does not use such device or account in the regular course of their employment in the part 2 program. In such instances, SAMHSA wishes neither to convey that these devices become part of the part 2 record, nor that, if the part 2 program is discontinued, these devices must be sanitized. Instead, SAMHSA clarifies that, in the case that patient contact is made through an employee's (or volunteer's or trainee's) personal email or cell phone account which he or she does not use in the regular course of business for that part 2 program, the employee should immediately delete this information from his or her personal account and only respond via an authorized channel provided by the part 2 program, unless responding directly from the employee's account is required in order to protect the best interest of the patient. If the email or

text contains patient identifying information, the employee should forward this information to such authorized channel and then delete the email or text from any personal account. These authorized channels are then subject to the normal standards of sanitization under §§ 2.16 and 2.19 and any other applicable federal and state laws. SAMHSA believes that this process will both protect the employee's personal property and the confidentiality of the patient's records if the patient makes such unauthorized contact.

III. Provisions of the Proposed Rule

A. Definitions (§ 2.11)

In the current regulation, ''Records'' is defined to mean ''any information, whether recorded or not, created by, received, or acquired by a part 2 program relating to a patient.'' In the 2017 final rule, SAMHSA noted that some commenters expressed confusion regarding what is considered unrecorded information (82 FR 6068); it, therefore, added parenthetical examples in an effort to clarify. But with the exception of these parenthetical examples, the basic definition for ''records'' under part 2 has remained the same since the 1987 final rule.

In a subsequent section of this proposed rule (III.B.) on ''Applicability'' (at § 2.12), SAMHSA discusses a proposed change to the restriction on disclosures under part 2, which would serve to clarify some record-keeping activities of non-part 2 providers that fall outside the scope of 42 CFR part 2. As explained in section III.B., the proposed change is needed to facilitate communication and coordination between part 2 programs and non-part 2 providers, and to ensure that appropriate communications are not hampered by fear among non-part 2 providers of inadvertently violating part 2, as a result of receiving and reading a protected SUD patient record and then providing care to the patient.

SAMHSA proposes here to make a conforming amendment to the § 2.11 definition of ''records,'' by adding, at the end of the first sentence of the definition, the phrase, ''provided, however, that information conveyed orally by a part 2 program to a non-part 2 provider for treatment purposes with the consent of the patient does not become a record subject to this part in the possession of the non-part 2 provider merely because that information is reduced to writing by that non-part 2 provider. Records otherwise transmitted by a part 2 program to a non-part 2 provider retain their characteristic as a ''record'' subject to this part in the possession of the non-part 2 provider, but may be segregated by that provider.''

The effect of this proposed amendment would be to incorporate a very limited exception to the definition of ''records,'' such that a non-part 2 provider who orally receives a protected SUD record from a part 2 program may subsequently engage in an independent conversation with her patient, informed by her discussion with the part 2 provider, and record SUD information received from the part 2 program or the patient, without fear that her own records thereafter would become covered by part 2. As discussed below in the proposed revisions to the ''Applicability'' section of part 2 (at § 2.12), the intent of these proposed clarifications is to better facilitate coordination of care between non-part 2 providers and part 2 programs, and to resolve lingering confusion among non-part 2 providers about when and how they can capture SUD patient care information in their own records, without fear of those records being subject to the confidentiality requirements of part 2.

B. Applicability (§ 2.12)

In the 1987 final rule, SAMHSA broadly established that the restrictions on disclosure under 42 CFR part 2 would apply to any alcohol and drug abuse information obtained by a federally assisted alcohol or drug abuse program. As explained in 1987, by limiting the applicability of 42 CFR part 2 to specialized programs—that is, to those programs that hold themselves out as providing and which actually provide alcohol or drug abuse diagnosis, treatment, and referral for treatment—the aim was to simplify the administration of the regulations, but without significantly affecting the incentive to seek treatment provided by the confidentiality protections. Limiting the applicability of 42 CFR part 2 to specialized programs was intended to lessen the adverse economic impact of the regulations on a substantial number of facilities which provide SUD care only as incident to the provision of general medical care. The exclusion of hospital emergency departments and general medical or surgical wards from coverage was not seen as a significant deterrent to patients seeking assistance for alcohol and drug abuse. SAMHSA's experience in the more than 30 years since 1987 has been consistent with this expectation.

The 2017 final rule elaborated on this policy, by establishing that the disclosure restrictions on SUD patient records would extend to individuals or entities who receive such records either from a part 2 program or from *another lawful holder. See* 42 CFR 2.12(d)(2)(i)(C). As explained in the 2017 final rule, a ''lawful holder'' of patient identifying information is an individual or entity who has received such information as the result of a part 2-compliant patient consent, or as a result of one of the exceptions to the consent requirements in the statute or implementing regulations (82 FR 6068). Thus, the effect of the 2017 rule was to expand the scope of application for part 2 confidentiality, by ensuring that records initially created by a part 2 program would remain protected under 42 CFR part 2 throughout a chain of subsequent re-disclosures, even into the hands of a downstream recipient not itself a part 2 program. The reason for the 2017 change was, once again, to avoid any deterrent effect on patients seeking specialized SUD care through part 2 treatment programs, by virtue of the patient records from those programs losing their part 2 confidentiality protection following a disclosure downstream to other ''lawful holder'' recipients of those records (81 FR 6997).

Although that policy was established in the 2017 final rule, specifically in § 2.12(d)(2)(i)(C), there remains some confusion within the provider community about what information collected by non-part 2 entities is (or is not) covered by the part 2 restrictions on re-disclosure. When SAMHSA expanded the reach of the Applicability provision in 2017, the intent was not to change the policy established in the 1987 rulemaking, nor to make the records of non-part 2 entities (such as some primary care providers) directly subject to 42 CFR part 2, simply because information about SUD status and treatment might be included in those records. Rather, the intent underlying the 2017 provision was to clarify the applicability of 42 CFR part 2 in a targeted manner, so that records initially created under the protection of part 2 would continue to be protected following disclosure to downstream recipients. In doing so, SAMHSA sought to encourage individuals to enter into SUD treatment through part 2 programs, by strengthening the confidentiality protection for records that originate from those programs. Implicit in SAMHSA rulemaking since 1987 has been the pursuit of a balance of policy interests: On the one hand, consistent with the Congressionally stated purpose of the drug abuse confidentiality statute, to encourage entry into SUD treatment by ensuring that the records of treatment

through a part 2 program would not be publicly disclosed, and on the other hand, to reduce the adverse impact of part 2 burdens on general medical care providers and facilities and on patient care.

In the wake of the nation's opioid epidemic and continuing trends related to alcohol use disorder and cannabis use disorder, it has become increasingly important for primary care providers and general medical facilities not covered by 42 CFR part 2 to be able to carry out treatment and health care operations that sometimes involve creating new records that mention SUD status and care. Such records and activities are not covered by 42 CFR part 2. However, coordination of care between part 2 programs and non-part 2 providers would involve the disclosure of SUD records and information by the former to the latter. Under the current 42 CFR part 2 regulation, such disclosures of records by a part 2 program to a non-part 2 provider do not render all subsequent records on SUD caretaking activity undertaken by the non-part 2 provider subject to the part 2 regulation. For example, when a non-part 2 provider is directly treating her own patient, and creates a record based on her own patient contact that includes SUD information, then that record is not covered by part 2.

Nevertheless, SAMHSA recognizes that there may be significant confusion or misunderstanding as to the applicability of part 2 rules to non-part 2 providers. This results in increased burden on non-part 2 providers, and the potential for impaired coordination of care for patients, which could be life threatening, for example, if an affected patient has an opioid use disorder. Although the existing text of 42 CFR 2.12 (d)(2)(i)(C) on Applicability does not compel these results, SAMHSA's experience in recent years has demonstrated the need for clearer regulatory language, to better delineate the records of non-part 2 entities which are not covered by the 42 CFR part 2 rules.

Based on the above considerations, SAMHSA proposes to add a new subsection (d)(2)(ii) to § 2.12, to better clarify that a non-part 2 treating provider's act of recording information about a SUD and its treatment would not make that record subject to 42 CFR part 2. SUD records received by that non-part 2 entity from a part 2 program are subject to part 2 restrictions on redisclosure of part 2 information by lawful holders, including redisclosures by non-part 2 providers. However, the records created by the non-part 2 provider in its direct patient encounter(s) would not be subject to part 2, unless the records received from the part 2 program are incorporated into such records. Segregation of any part 2 records previously received from a part 2 program can be used to ensure that new records (*e.g.,* a treatment note based on a direct clinical encounter with the patient) created by non-part 2 providers during their own patient encounters would not become subject to the part 2 rules.

SAMHSA believes that this addition would further clarify the 2017 revisions, by affirming that the independent record-keeping activities of non-part 2-covered entities remain outside the coverage of 42 CFR part 2, despite such providers' (segregated) possession, as lawful holders, of part 2-covered records. The part 2 disclosure restrictions only apply to SUD patient records originating with part 2 providers. Such part 2 originating records are subject to the part 2 limitations on use and disclosure as they move through the hands of other ''lawful holders'' and part 2 programs. Even where part 2 does not apply to a patient record created by a non-part 2 provider following a direct patient encounter, that record will nevertheless be subject to the HIPAA Privacy Rule.

One means by which non-part 2 treating providers could benefit from the above proposal would be through the segregated storage of part 2-covered SUD records received from a part 2 program or other lawful holder. In the context of a paper record received from a part 2 program, the proposed requirement could be met by the ''segregation'' or ''holding apart'' of these records; in the context of electronic records from a part 2 program, the proposed requirement could be met by logical ''segmentation'' of the record in the electronic health record (EHR) system in which it is held. As under the current rule, when a non-part 2 entity receives a protected SUD record from a part 2 program or other lawful holder, the received record is subject to the heightened confidentiality requirements under part 2. ''Segregating'' the received record, whether by segmenting it or otherwise labeling or holding it apart, would allow the recipient entity to identify and keep track of a record that requires heightened protection.

Under both the proposal and the current text of part 2, the lawful holder recipient entity remains subject to part 2 re-disclosure restrictions with regard to the part 2 record, whether or not the recipient entity is able to segregate it. But ''segregating'' allows the recipient entity both to keep track of the part 2 records, and readily distinguish them from all the other patient records that the entity holds which are not subject to part 2 protection. As mentioned above, ''segregating'' the part 2 record may involve physically holding apart any part 2-covered records from the recipient's other records, which would be quite feasible in the case of a received paper record or an email attachment containing such data. Alternately, ''segregating'' can involve electronic solutions, such as segmenting an electronic SUD patient record received from a part 2 program by use of a Data Segmentation for Privacy (DS4P) compliant EHR platform, in which segmentation is carried out electronically based on the standards of DS4P architecture (discussed further below). Either of these methods for ''segregating'' part 2 covered records is a satisfactory way for the recipient entity to keep track of them, and to distinguish them from all the other patient records that the entity holds which are not subject to part 2 protection. We note that ''segregating'' a received part 2 record does not require the use of a separate server for holding the received part 2 records. We do not intend this rule to result in the creation of separate servers or health IT systems for part 2 documents. Our policy is intended to be consistent with existing technical workflows for data aggregation, storage, and exchange.

One concern that this proposal raises is the possibility that a non-part 2 provider might transcribe extensively from a part 2 record without having a clinical purpose for doing so. This, however, is not the intent of the proposal. Briefly, the intent is to allow a non-part 2 provider to receive SUD information about a patient from a part 2 program, and then to engage in a treatment discussion with that patient, informed by that information, and then be able to create her own treatment records including SUD content, without the latter becoming covered by part 2. This level of flexibility is needed in order to improve coordination of care efforts, and to save lives. It is not SAMHSA's intent to encourage a non-part 2 provider to abuse the rules, by transcribing extensively from a conversation with a part 2 program or from a received part 2 record when creating her own records, without having a clinical purpose for doing so.

In the 2017 final rule, SAMHSA responded to several public comments about data segmentation issues connected to 42 CFR part 2. We acknowledged then that although significant challenges exist for data segmentation of SUD records within

some current EHR systems, SAMHSA has led the development of use- case discussions related to the technical implementation of the Data Segmentation for Privacy (DS4P) standard and recently contributed to the development of the FHIR implementation guide for Consent2Share.[2] We believe that DS4P and Consent2Share are important tools to advance the needs of part 2 providers and providers across the care continuum. SAMHSA recognizes and encourages the further development of DS4P standards, and the adoption by providers of EHR systems that meet those standards. The current proposal for revising § 2.12 does not, however, impose on non-part 2 entities any new requirement for data segmentation as a practice, nor does it establish any new standards or requirements for EHR technology. SAMHSA considered including, in this proposed rule, the policy option of defining ''segmented'' and ''segmentation'' under 42 CFR part 2, in order to offer greater clarity about what these terms mean under the rule. We decided not to do so, however, since a formal definition of segmentation might have unforeseen technical ramifications for EHR and HIE systems implementation in the future. In addition, SAMHSA believes this policy should be flexible, to allow providers with different operational standards and capabilities to implement the policy with regard to segregation or segmentation in the least burdensome way to their practices, while still maintaining confidentiality of patient records subject to part 2. Nevertheless, using health IT to support data segmentation for privacy and consent management is one path that a provider could use to support their effort to meet part 2 requirements including those described in this proposed rule.

In addition to the proposed revision to 42 CFR 2.12(d) above, SAMHSA proposes conforming changes to the regulatory text of several other sections of 42 CFR 2.12, to provide further clarification of the applicability of part 2 restrictions on patient records.

In § 2.12(a), SAMHSA proposes to change the text to reflect that the restrictions on disclosure apply to ''any records,'' rather than to ''any information, whether recorded or not.'' We also propose a conforming change to § 2.12(a)(ii), to indicate that the restrictions of this part apply to any records which ''contain drug abuse information obtained . . .'' or ''contain alcohol abuse information obtained . . .'' Taken together, these changes are congruent with the amendment to § 2.12(d) and help to make it clear that part 2 applies to ''records'' (as defined under § 2.11).

In § 2.12(e)(3), SAMHSA proposes to change the text to reflect that the restrictions on disclosure apply to the recipients ''of part 2-covered records,'' rather than to the recipients ''of information.'' This proposed change is congruent with the proposed amendment to § 2.12(d) and would help to make explicit that downstream restrictions on re-disclosure by non-Part 2 entities are tied to protected records which originate from a part 2 program in the first instance. SAMHSA believes that this proposed conforming change is important, because it would further establish that the re-disclosure burden for non-part 2 entities ties specifically to the protected records that they receive from a part 2 program, and not to any other records that the non-part 2 entity creates by itself, regardless of whether the latter might include some SUD-related content.

In § 2.12(e)(4), SAMHSA likewise proposes a conforming change to the text, by adding language to reflect that a diagnosis prepared by a part 2 program for a patient who is neither treated by nor admitted to that program, nor referred for care elsewhere, is nevertheless covered by the regulations in this part. The proposed change to the regulatory text is for clarity, to ensure that this section could not be misread as applying directly to the activities of a non-part 2 entity or provider.

Similarly, and congruent with the above conforming changes, SAMHSA is also proposing to modify the definition of ''Records'' in § 2.11 as discussed in Section III.A. above and to modify and streamline the language in § 2.32 as discussed in Section III.D. below. Readers are referred to those sections of the proposed rule for specifics on those proposals and the rationales for such proposed policies.

C. Consent Requirements (§ 2.31)

In the 2017 final rule, SAMHSA made several changes to the consent requirements at § 2.31, to facilitate the sharing of information within the health care context, while ensuring the patient is fully informed and the necessary confidentiality protections are in place. Among those changes, SAMHSA amended the written consent requirements regarding identification of the individuals and entities to whom disclosures of protected information may be made (82 FR 6077). Specifically, SAMHSA adopted a framework for disclosures to entities that made several distinctions between recipients that have a treating provider relationship with the patient, and recipients that do not. Under the current rules at § 2.31(a)(4), if the recipient entity does not have a treating provider relationship with the patient whose information is being disclosed and is not a third-party payer, such as an entity that facilitates the exchange of health care information or research institutions, the written consent must include the name of the entity and one of the following: ''*the name(s) of an individual participant(s); the name(s) of an entity participant(s) that has a treating provider relationship with the patient whose information is being disclosed; or a general designation of an individual or entity participant(s) or class of participants that must be limited to a participant(s) who has a treating provider relationship with the patient whose information is being disclosed.*'' As stated in the 2017 final rule, SAMHSA wants to ensure that patient identifying information is only disclosed to those individuals and entities on the health care team with a need to know this sensitive information (82 FR 6084). SAMHSA, accordingly, limited the ability to use a general designation in the 'to whom' section of the consent requirements to those individuals or entities with a treating provider relationship to the patient at issue.

Since the 2017 final rule was published, SAMHSA has learned that some patients with substance use disorders may want part 2 programs to disclose protected information to entities for reasons including eligibility determinations and seeking non-medical services or benefits from governmental and non-governmental entities (*e.g.,* social security benefits, local sober living or halfway house programs). Because these entities lack a treating provider relationship with the patient, the current rules preclude them from being designated by name to receive the information, unless they are third-party payers, or the patient knows the identity of the specific individual who would receive the information on behalf of the benefit program or service provider. In addition, many of these entities may not be able to identify a specific employee to receive application information, and instead are likely to encourage patients to contact them or apply online, such that information is submitted to the organization rather than to a specific person. SAMHSA has heard that many patients have encountered frustration and delays in applying for and receiving services and

[2] ''Consent2Share FHIR Profile Design.docx'' can be accessed at *https://gforge.hl7.org/gf/project/cbcc/frs/.*

benefits from, and in authorizing part 2 providers to release their information to, entities providing such services and benefits, by virtue of the inability to designate these entities by organization name only on the written consent for disclosure of part 2 information. It is not SAMHSA's intent to limit patients' ability to consent to the disclosure of their own information. We wish, rather, to empower patients to consent to the release and use their health information in whatever way they choose, consistent with statutory and regulatory protections designed to ensure the integrity of the consent process.

Therefore, SAMHSA proposes to amend the current regulations to clarify that patients may consent to disclosures of part 2 information to organizations without a treating provider relationship. We propose to amend § 42 CFR 2.31(a)(4)(i), which currently requires a written consent to include the names of individual(s) to whom a disclosure is to be made. The amendment would insert the words ''or the name(s) of the entity(-ies)'' to that section, so that a written consent must include the name(s) of the individual(s) or entity(-ies) to whom or to which a disclosure is to be made. SAMHSA believes that this language aligns more closely with the wording of the regulation before the January 2017 final rule changes and would alleviate problems caused by the inability to designate by name an individual recipient at an entity. For example, if a patient wants a part 2 program to disclose impairment information to the Social Security Administration for a determination of benefits, such patient would only need to authorize this agency on the ''to whom'' section of the consent form, rather than identify a specific individual at the agency to receive such information.

SAMHSA proposes to remove § 2.31(a)(4)(ii) and (iii)(A), and redesignate current § 2.31(a)(4)(iii)(B) as § 2.31(a)(4)(ii). SAMHSA also proposes to amend the newly redesignated § 2.31(a)(4)(ii), so that it applies only to entities that facilitate the exchange of health information (*e.g.,* health information exchanges (HIEs)) or research institutions. The proposed amendment would provide that, if the recipient entity is an entity that facilitates the exchange of health information or is a research institution, the consent must include the name of the entity and one of the following: (1) The name(s) of an individual or entity participant(s); or (2) a general designation of an individual or entity participant(s) or class of participants, limited to a participant(s) who has a treating provider relationship with the patient whose information is being disclosed. As stated in the January 2017 final rule (82 FR 6084), for entities that facilitate the exchange of health information or are research institutions, SAMHSA wants to ensure that patient identifying information is only disclosed to those individuals and entities on the health care team with a need to know this sensitive information. Therefore, in instances where information is disclosed to entities that facilitate the exchange of health information or research institutions, SAMHSA will continue to limit the ability to use a general designation (*e.g.,* ''all my treating providers'') in the ''to whom'' section of the consent requirements to those individuals or entities with a treating provider relationship.

D. Prohibition on Re-Disclosure (§ 2.32)

As discussed in Section III.B. above, in the 2017 final rule, SAMHSA clarified that the disclosure restrictions on SUD patient records would extend to individuals or entities who receive such records either from a part 2 program or from another lawful holder. We further emphasized this clarification in the notice requirements in § 2.32. Under § 2.32, each disclosure made with a patient's consent must contain a written statement notifying the recipient of the applicability of 42 CFR part 2 to any re-disclosure of the protected record. In the 2017 final rule, SAMHSA noted that the prohibition on re-disclosure provision only applies to information from the record that would identify, directly or indirectly, an individual as having been diagnosed, treated, or referred for treatment for a substance use disorder by a part 2-covered provider. The prohibition still allows other health-related information shared by the part 2 program to be re-disclosed, if permissible under the applicable law (82 FR 6089).

SAMHSA has heard from the provider community that this section of the regulation has prompted downstream, non-part 2 providers to manually redact portions of their disclosure data files that identify a patient as having or having had a substance use disorder. This activity is operationally burdensome and not the intent of the 2017 final rule. As noted in Section III.B. above, SAMHSA proposes to modify the regulations such that the recording of information about a SUD and its treatment by a non-part 2 entity is permitted and does not constitute records that have been redisclosed under part 2 (and, thus, subjected to part 2 protections), provided that any specific SUD records received from a part 2 program or other lawful holder are segregated or segmented. Therefore, a downstream entity would not need to redact SUD information in its records, provided that the original record received from the part 2 program or other lawful holder is segregated or segmented.

To ensure that downstream entities are aware that they do not need to redact information in their files if they have means of identifying the part 2-covered data (*e.g.,* by segregating or segmenting the files received from the part 2 program), as proposed above, SAMHSA proposes to modify and streamline the notice language in § 2.32(a)(1), to remove the superfluous language that has contributed to confusion regarding the restrictions on re-disclosures. Specifically, we propose to remove ''information in'' and ''that identifies a patient as having or having had a substance use disorder either directly, by reference to publicly available information, or through verification of such identification by another person,'' from the current notice language established in the regulation. Additionally, SAMHSA has added language to specifically state that only the record is subject to the prohibition on re-disclosure in § 2.32, unless further disclosure either is expressly permitted by written consent of the individual whose information is being disclosed in the record or is otherwise permitted by 42 CFR part 2.

E. Disclosures Permitted With Written Consent (§ 2.33)

In the 2018 final rule (83 FR 241), SAMHSA clarified at § 2.33(b), the scope and requirements for permitted disclosures by a lawful holder to contractors, subcontractors, and legal representatives, for the purpose of payment and certain health care operations. In the 2017 proposed rule, SAMHSA proposed to include a list of 17 specific types of permitted payment and health care operations (82 FR 5487).

Based on the numerous comments received requesting additions or clarifications to the list, as well as concerns that the changes occurring in the health care payment and delivery system could rapidly render any list of activities included in the regulatory text outdated, SAMHSA decided not to include the list of 17 activities in the regulation text in the 2018 final rule, and, instead, decided to include a list of the types of permitted activities in the preamble of the 2018 final rule. SAMHSA stated in the 2018 final rule that we included this list of activities in the preamble in order to make clear that it is an illustrative rather than

exhaustive list of the types of payment and health care operations activities that would be acceptable to SAMHSA (83 FR 241). By removing the list from the regulatory text, SAMHSA intended for other appropriate payment and health care operations activities to be permitted under § 2.33 as the health care system continues to evolve.

Since the 2018 final rule was published, SAMHSA has learned that including an illustrative list of permissible activities in the preamble rather than in the text of the regulation did not fully clarify the circumstances under which part 2 information could be further disclosed under § 2.33. Specifically, stakeholders may believe that a particular activity is not permissible unless it is explicitly identified within the regulatory text. Therefore, to clear up any remaining confusion, SAMHSA proposes to amend § 2.33(b) to expressly include the illustrative list of permissible activities that was contained in the preamble of the 2018 final rule (83 FR 243). It is important to note, as was noted in the preamble to the 2018 final rule, that this list is illustrative rather than exhaustive.

Specifically, examples of permissible activities that SAMHSA considers to be payment and health care operations activities to be added under § 2.33(b) include:

- Billing, claims management, collections activities, obtaining payment under a contract for reinsurance, claims filing and related health care data processing;
- Clinical professional support services (*e.g.,* quality assessment and improvement initiatives; utilization review and management services);
- Patient safety activities;
- Activities pertaining to:
  - The training of student trainees and health care professionals;
  - The assessment of practitioner competencies;
  - The assessment of provider and/or health plan performance; and/or
  - Training of non-health care professionals;
- Accreditation, certification, licensing, or credentialing activities;
- Underwriting, enrollment, premium rating, and other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits, and/or ceding, securing, or placing a contract for reinsurance of risk relating to claims for health care;
- Third-party liability coverage;
- Activities related to addressing fraud, waste and/or abuse;
- Conducting or arranging for medical review, legal services, and/or auditing functions;
- Business planning and development, such as conducting cost management and planning-related analyses related to managing and operating, including formulary development and administration, development or improvement of methods of payment or coverage policies;
- Business management and/or general administrative activities, including management activities relating to implementation of and compliance with the requirements of this or other statutes or regulations;
- Customer services, including the provision of data analyses for policy holders, plan sponsors, or other customers;
- Resolution of internal grievances;
- The sale, transfer, merger, consolidation, or dissolution of an organization;
- Determinations of eligibility or coverage (*e.g.,* coordination of benefit services or the determination of cost sharing amounts), and adjudication or subrogation of health benefit claims;
- Risk adjusting amounts due based on enrollee health status and demographic characteristics; and
- Review of health care services with respect to medical necessity, coverage under a health plan, appropriateness of care, or justification of charges.

To further clarify that the list is not exhaustive, SAMHSA also proposes to add ''other payment/health care operations activities not expressly prohibited'' in this provision to the end of the list. For example, SAMHSA previously added language to the regulatory text in § 2.33(b) to clarify that disclosures to contractors, subcontractors and legal representatives are not permitted for activities related to a patient's diagnosis, treatment, or referral for treatment. SAMHSA again clarifies that § 2.33(b) is not intended to cover care coordination or case management, and disclosures to contractors, subcontractors, and legal representatives to carry out such purposes are not permitted under this section. We note that this policy differs from the Health Insurance Portability and Accountability Act Privacy Rule, under which 'health care operations' encompasses such activities as case management and care coordination. SAMHSA has previously emphasized the importance of maintaining patient choice in disclosing information to health care providers with whom they will have direct contact (83 FR 243). Although § 2.33(b) does not cover disclosures for the purpose of care coordination or case management, such disclosures may nevertheless be made under other provisions of §§ 2.31 and 2.33. Additionally, several of the proposals to revise other sections of part 2 in this rule-making will help to facilitate coordination of care, as under § 2.12 (Applicability).

F. Disclosures To Prevent Multiple Enrollments (§ 2.34)

In the 2017 final rule, SAMHSA modernized § 2.34 by updating terminology and revising corresponding definitions. Section 2.34 permits consensual disclosure of patient records to a withdrawal management or maintenance treatment program within 200 miles of a part 2 program. After receiving comments, we retained the specificity of ''200 miles'' to prevent multiple enrollments that could result in patients receiving multiple streams of SUD treatment medications, which in turn may increase the likelihood of an adverse event or of diversion (82 FR 6094).

Central registries, defined in § 2.11, do not exist in all states, and the defining parameters for the operation of the registries vary somewhat across states and across part 2 programs. However, in the context of the opioid epidemic, recent experience has demonstrated that it is important for all providers who work with SUD patients, including non-opioid treatment program (non-OTP) providers, to have access to the information in the central registries, for the purpose of helping prevent duplicative patient enrollment for opioid use disorder treatment. Access to central registry information is also needed by non-OTP providers to fully inform their decisions when considering appropriate prescription drugs, including opioids, for their patients.

Methadone is a long-acting opioid used to treat opioid use disorders and for pain that, when used at levels higher than recommended for an individual patient, can lead to low blood pressure, decreased pulse, decreased respiration, seizures, coma, or even death. When used as a part of a supervised medication assisted treatment (MAT) program, methadone is a safe and effective treatment for SUD, including OUD. Methadone is a long acting opioid, subject to accumulation when its metabolism is inhibited. Its effects may be potentiated by certain other drugs with which it may have pharmacodynamic interactions, so the medication is specifically tailored to each individual patient and must be used exactly as prescribed. Exceeding the specific dosing can lead to dangerous side effects and potential overdose. Other medications, including

other SUD treatments, such as buprenorphine, as well as other medication including other opioids, benzodiazepines, HIV medications, certain antipsychotics and anti-depressants, also have the potential to interact dangerously with methadone.

Buprenorphine products are also long-acting opioid formulations approved by the Food and Drug Administration (FDA) for treatment of opioid use disorder, subject to limitations, which can be dispensed at OTPs, and in outpatient settings. While buprenorphine is demonstrated to exhibit a ceiling effect on respiratory depression in persons with opioid tolerance, it has significant opioid effects in those without tolerance which can contribute to adverse events including opioid overdose. Both of these long acting opioids (methadone and buprenorphine) have potential drug interactions with other medications that could lead to adverse events, including drug toxicity and opioid overdose.

These realities underscore the reason it is important for a prescriber to check central registries, when possible, to assure that it is appropriate to prescribe the contemplated opioid therapies for a particular individual. The ability to query a central registry regarding any duplicative enrollment in similar treatment can also be crucial to effective care, and to ensuring patient safety. Similarly, to avoid opioid-related adverse events, it is imperative that prescribing clinicians be aware of any opioid therapy that may be in current use by a patient prior to making further medication prescribing decisions.

Under the current language of § 2.34(a), a part 2 program may seek a written patient consent in order to disclose treatment records to a central registry. In turn, the recipient central registry may only disclose-patient contact information for the purpose of preventing multiple enrollments under § 2.34(b). Currently, under § 2.34(c), the central registry may only disclose when asked by a ''member program'' whether an identified patient is enrolled in another member program.

SAMHSA proposes to expand the scope of § 2.34 to make non-OTP providers with a treating provider relationship with the patient eligible to query a central registry to determine whether the specific patient is already receiving opioid treatment through a member program to prevent duplicative enrollments and prescriptions for excessive opioids, as well as to prevent any adverse effects that may occur as a result of drug interactions with other needed medications. Specifically, SAMHSA proposes to amend § 2.34(b) to include the use of central registry information to coordinate care with a non-part 2 program. In addition, we propose to add a new subsection (d) to specifically permit non-member treating providers to access the central registries. Previous subsection (d) will be re-designated as subsection (e).

SAMHSA believes that disclosures by central registries to non-OTP treating providers will help to ensure patient safety, and to prevent duplicative treatment plans and medications or medication doses that could place a patient receiving SUD treatment at risk.

For the reasons above, SAMHSA proposes to amend § 2.34(b) and (d) to allow non-OTP providers that have a treating relationship to the patient to access the central registries to inquire about that patient.

G. Disclosure to Prescription Drug Monitoring Programs (§ 2.36)

A prescription drug monitoring program (PDMP) is a statewide electronic database that collects, analyzes, and makes available prescription data on controlled substances prescribed by practitioners and non-hospital pharmacies.[3] Forty-nine states, St. Louis County, Missouri [4] and the District of Columbia have legislatively mandated the creation of PDMPs. Most states had developed their own PDMP prior to the current opioid crisis; however, few prescribers accessed them.[5] As opioid use disorder rates, overdoses and deaths increased significantly since 1999, the majority of states began requiring health professionals to check the state's PDMP [6] before prescribing controlled substances to patients. Currently, 41 states require physicians to use their state's PDMP to analyze prescription history prior to writing a prescription for opioids or other controlled substances.[7] Studies have shown that states that have implemented such a requirement have seen declines in overall opioid prescribing, drug-related hospitalizations, and overdose deaths.[8]

Most PDMPs track prescription drug information on Schedule II–V controlled medications. Pharmacies must submit the prescription data required by their state's PDMP, depending on the state's statutory requirements. More robust PDMP programs have been associated with greater reductions in prescription opioid overdoses.[9] As noted above, this data allows providers to ensure that a patient is not receiving multiple prescriptions and to enhance patient care and patient safety.

Presently, OTPs are not required to report methadone or buprenorphine dispensing to their states' PDMP. In our 2011 guidance letter, SAMHSA encouraged OTP staff to access PDMPs, but stated that OTPs could not disclose patient identifying information to a PDMP unless an exception applies, consistent with the federal confidentiality requirements.[10] SAMHSA no longer believes this policy is advisable in light of the current public health crisis arising from opioid use, misuse, and abuse. In the past 10 years, there has been a substantial increase in prescription drug misuse, admissions to substance use facilities, emergency department visits and opioid-related deaths.[11] The omission of OTP data from a PDMP can lead to potentially dangerous adverse events for patients who may receive duplicate or potentially contraindicated prescriptions as part of medical care outside of an OTP, thereby placing them at risk for adverse events, including

[3] SAMHSA's Center for the Application of Prevention Technologies; Using Prescription Drug Monitoring Program Data to Support Prevention Planning. Available at: *https://www.samhsa.gov/capt/sites/default/files/resources/pdmp-overview.pdf.*

[4] Former Missouri Gov. Greitens ordered the creation of a statewide PDMP in July 2017, but state lawmakers have not yet authorized funding for the program. St. Louis County started its own PDMP in April 2017, which covers nearly 80 percent (28 counties and 6 cities) of Missouri physicians and pharmacists.

[5] Brandeis University Prescription Drug Monitoring Program Training and Technical Assistance Center. Available at: *http://www.pdmpassist.org/pdf/Resources/Briefing_on_mandates_3rd_revision_A.pdf.*

[6] Pew Charitable Trusts and National Alliance for State Model Drug Laws. Available at: *https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2017/12/29/in-opioid-epidemic-states-intensify-prescription-drug-monitoring.*

[7] Pew Charitable Trusts. When are Prescribers Required to Use Prescription Drug Monitoring Programs? January 24, 2018. Available at: *https://www.pewtrusts.org/en/research-and-analysis/data-visualizations/2018/when-are-prescribers-required-to-use-prescription-drug-monitoring-programs.*

[8] Brandeis University Prescription Drug Monitoring Program Training and Technical Assistance Center. Available at: *http://www.pdmpassist.org/pdf/Resources/Briefing_on_mandates_3rd_revision_A.pdf.*

[9] Pew Charitable Trusts. When are Prescribers Required to Use Prescription Drug Monitoring Programs? January 24, 2018. Available at: Available at: *https://www.pewtrusts.org/en/research-and-analysis/data-visualizations/2018/when-are-prescribers-requiredd-to-use-prescription-drug-monitoring-programs.*

[10] Clark HW. Dear Colleague letter. September 27, 2011. Available at: *https://www.samhsa.gov/sites/default/files/programs_campaigns/medication_assisted/dear_colleague_letters/2011-colleague-letter-state-prescription-drug-monitoring-programs.pdf.*

[11] SAMHSA. In Brief: Prescription Drug Monitoring Programs: A Guide For Healthcare Providers. Volume 10, Issue 1 (Winter 2017). Available at: *https://store.samhsa.gov/system/files/sma16-4997.pdf.*

possible overdose or even fatal drug interactions.

SAMHSA believes that permitting part 2 programs, including OTPs, and lawful holders to enroll in PDMPs and submit the dispensing data for controlled substances required by states currently for other prescribed, controlled substances would allow for greater patient safety, better patient treatment, and better care coordination among the patient's providers. Therefore, SAMHSA proposes to add a new section § 2.36, permitting OTPs and other lawful holders to report the required data to their respective state PDMPs when dispensing medications. The proposed rule would require part 2 providers to obtain written consent from the patient whose identifying information will be disclosed prior to making such reports. This update is consistent with the proposal under § 2.34(c) to allow non-OTPs to query central registries to prevent duplicate enrollment.

SAMHSA acknowledges that this proposal may raise concerns about law enforcement access to PDMPs, particularly in those states in which PDMPs are operated by a law enforcement agency. However, individuals are not limited to OTPs when seeking OUD treatment. Prescriptions written for OUD opioid pharmacotherapy by non-OTP providers are already recorded in the state PDMP. By implication, PDMPs operated by law enforcement agencies are already receiving some patient data related to SUD treatment. Although the current proposal might expand that practice, it would not create it. And because the disclosure of SUD patient records by OTPs would be made contingent on written patient consent, any negative impact on patient confidentiality seems likely to be small. By contrast, the omission from PDMPs of dispensing and prescribing data from OTPs presents serious safety risks for SUD patients. While the reporting of patient data to a PDMP by an OTP would make it possible for law enforcement, prescribers, and pharmacies with access to a PDMP to determine that a specific patient had received services at a specific OTP, law enforcement would still require a court order meeting the requirements of 42 U.S.C. 290dd–2(c) to access the covered records of that patient or any other patient served at the OTP. SAMHSA believes that allowing for OTP reporting to PDMPs further enhances PDMPs as a tool to help prevent prescription drug misuse and opioid overdose, while providing more complete and accurate data. In turn, more robust PDMP data is imperative for prescribers and providers to make better and more accurate patient care decisions while increasing patient safety and assuring appropriate care.

H. Medical Emergencies (§ 2.51)

Under § 2.51, disclosures of substance use disorder treatment records without patient consent are permitted in a bona fide medical emergency. Although not a defined term under part 2, a ''bona fide medical emergency'' most often refers to the situation in which an individual requires urgent clinical care to treat an immediately life-threatening condition (*e.g.,* heart attack, stroke, overdose, etc.), and in which it is infeasible to seek the individual's consent to release of relevant, sensitive SUD records prior to administering potentially life-saving care. SAMHSA proposes to amend this section to address the impact of major [12] and natural disasters, declared by state or federal authorities, on access to substance use treatment and services, in addition to the more common situation of an individual experiencing a ''bona fide medical emergency.''

Disasters (*e.g.,* hurricanes, wildfires) can present unique challenges for patients with substance use disorders, and for their treating providers. These events may disrupt the usual access to services and medications across a geographic region. As a result, patients may be required to seek treatment at facilities or with providers who do not have full access to their records.

When access to, or operation of, substance use disorder treatment facilities and services are disrupted on a regional basis in the wake of a disaster like a hurricane or wildfire, many patients become unable to access care through their usual providers, while many providers may be unable to follow usual consent-based procedures in order to obtain and/or release records for large numbers of patients. Thus, the disclosure requirements of 42 CFR part 2 may be too burdensome in these instances. For example, in the case of a hurricane, normal policies and procedures for obtaining consent according to §§ 2.31 and 2.32 may not be operational. At the same time, the inability of SUD patients to access needed care through their usual providers (or other providers) that have access to part 2-protected records concerning their condition, may constitute or lead to medical emergencies. As a result of these factors, SAMHSA believes that it is necessary—and consistent with its statutory authority—to include natural and major disasters within the meaning of medical emergency for which there would be an exception to the requirement of consent for disclosure of part 2 records. In this NPRM, such an exception is proposed.

SAMHSA underscores that consent should still be obtained if at all feasible, but appropriate care should be the priority in these often-devastating scenarios and an exception should be allowed. Thus, SAMHSA proposes to revise § 2.51(a) to facilitate expedient access to care for patients with SUDs during natural and major disasters. Specifically, SAMHSA proposes to authorize, under § 2.51(a), a part 2 program to disclose patient identifying information to medical personnel, without patient consent, as needed in the event of a natural or major disaster to deliver effective ongoing substance use disorder services to patients in such disasters. Specifically, SAMHSA proposes that this medical emergency exception would apply only when a state or federal authority declares a state of emergency as a result of a disaster and the part 2 program is closed and unable to provide services or obtain the informed consent of the patient as a result of the disaster, and would immediately be rescinded once the part 2 program resumes operations.

I. Research (§ 2.52)

SAMHSA recognizes the need for researchers to use SUD-related data to advance scientific research, particularly in light of the national opioid epidemic. SAMHSA supports the conduct of scientific research on SUD care, and has worked to allow researchers appropriate access to healthcare data relating to SUD, while maintaining appropriate confidentiality protections for patients.

Under 42 CFR 2.52, part 2 programs are permitted to disclose patient identifying information for research, without patient consent, under limited circumstances. In the 2017 Final Rule, SAMHSA made several changes to the research exception at § 2.52, including permitting the disclosure of data by lawful holders (as well as by part 2 programs) to qualified personnel for the purpose of conducting scientific research.

Currently § 2.52 allows the disclosure of patient identifying information for research purposes without patient consent, if the recipient of the patient identifying information is a HIPAA-covered entity or business associate, and has obtained and documented authorization from the patient, or a

[12] The Federal Emergency Management Agency (FEMA) notes that the President can declare a major disaster for any natural event, regardless of cause, that is determined to have caused damage of such severity that it is beyond the combined capabilities of state and local governments to respond. *https://www.fema.gov/disaster-declaration-process.*

waiver or alteration of authorization, consistent with the HIPAA Privacy Rule at 45 CFR 164.508 or 164.512(i) or the recipient is subject to the HHS regulations regarding the protection of human subjects under the Common Rule. (45 CFR part 46).

Since the 2017 Final Rule, SAMHSA has become aware that limiting research disclosures under § 2.52, to only HIPAA-covered entities or institutions subject to the Common Rule,[13] may make it more difficult for some legitimate stakeholders to obtain data from SUD treatment records, for the purpose of conducting scientific research. For example, under the current provisions of § 2.52, the disclosure by a lawful holder of SUD records for the purpose of research to a State agency without a part 2 patient consent may be barred, given that most State agencies are neither HIPAA-covered entities nor directly subject to the Common Rule. It is not SAMHSA's intention or policy to make it more burdensome for these sorts of stakeholders to carry out scientific research. SAMHSA would like to more closely align the requirements of 42 CFR 2.52 (disclosures for the purpose of research), with the currently analogous provisions on research under the HIPAA Privacy Rule (45 CFR 164.512(i)) and the Common Rule, in order to minimize any conflict or duplication in the requirements for consent to disclosure of records for the purpose of research. Therefore, SAMHSA is proposing to modify the text of § 2.52(a), in order to allow research disclosures of part 2 data from a HIPAA covered entity or business associate to individuals and organizations who are neither HIPAA covered entities, nor subject to the Common Rule, provided that any such data will be disclosed in accordance with the HIPAA Privacy Rule at 45 CFR 164.512(i). This change will align the requirements of part 2 with the Privacy Rule around the conduct of research on human subjects. SAMHSA believes this change to § 2.52(a) is needed, in order to allow an appropriate range of stakeholders to conduct scientific and public health research on SUD care and SUD populations.

In addition, SAMHSA is proposing two additional changes to the text of § 2.52(a). First, SAMHSA is proposing to add new § 2.52(a)(1)(iii), in order to clarify that research disclosures may be made to members of the workforce of a HIPAA covered entity for purposes of employer-sponsored research, where that covered entity requires all research activities carried out by its workforce to meet the requirements of either the Privacy Rule and/or Common Rule, as applicable. Second, SAMHSA is also proposing to add new § 2.52(a)(1)(iv), to permit research disclosures to recipients who are covered by FDA regulations for the protection of human subjects in clinical investigations (at 21 CFR part 50), subject to appropriate documentation of compliance with FDA regulatory requirements, and pursuant to authority under the Food, Drugs and Cosmetics Act. In both instances, these proposals would help to align the part 2 requirements for research disclosures of SUD data, with analogous requirements for the conduct of research on human subjects that may apply under other federal regulations in specific circumstances.

J. Audit and Evaluation (§ 2.53)

Current regulations at §§ 2.53(a), (b), and (c) describe the circumstances under which specified individuals and entities may access patient identifying information in the course of an audit or evaluation. Section 2.53(a) governs the disclosure of patient identifying information for audits and evaluations that do not involve the downloading, forwarding, copying, or removing of records from the premises of a part 2 program or other lawful holder. In these instances, information may be disclosed to individuals and entities who agree in writing to comply with the limitations on disclosure and use in § 2.53(d) and who perform the audit or evaluation on behalf of one of the following: A federal, state, or local governmental agency that provides financial assistance to or is authorized to regulate a part 2 program or other lawful holder; an individual or entity which provides financial assistance to a part 2 program or other lawful holder; a third-party payer covering patients in a part 2 program; or a quality improvement organization (QIO) performing a utilization or quality control review. The regulations permit disclosure to contractors, subcontractors, or legal representatives performing audits and evaluations on behalf of certain individuals, entities, third-party payers, and QIOs described directly above. At § 2.53(a)(2), the regulations also allow part 2 programs or other lawful holders to determine that other individuals and entities are qualified to conduct an audit or evaluation of the part 2 program or other lawful holder. In these instances, patient information may be disclosed during an on-premises review of records, as long as the individuals and entities agree in writing to comply with the limitations on disclosure and use in § 2.53(d).

Section 2.53(b) of the regulation governs the copying, removing, downloading, or forwarding of patient records in connection with an audit or evaluation performed on behalf of government agencies, individuals, and entities described in 42 CFR 2.53(b)(2), which are identical to the agencies, individuals, and entities described in § 2.53(a)(1) above. In these audits, records containing patient identifying information may be copied or removed from the premises of a part 2 program or other lawful holder, or downloaded or forwarded to another electronic system or device from the part 2 program's or other lawful holder's electronic records, by an individual or entity who agrees to the records maintenance standards and disclosure limitations outlined in § 2.53(b)(1)(i)–(iii).

Additionally, patient identifying information may be disclosed to individuals and entities who conduct Medicare, Medicaid, or CHIP audits or evaluations as set forth in § 2.53(c).

SAMHSA understands there is confusion about § 2.53 as it applies to several specific situations, and therefore proposes to make the following changes to the regulations to improve clarity about what is permissible under these sections. SAMHSA also proposes to update part 2 regulatory language related to quality improvement organizations (QIO) to align with current QIO regulations.

First, some stakeholders have voiced frustration that part 2 programs have been unwilling or unable to disclose patient records that may be needed by federal, state, and local agencies, to better serve and protect patients with SUD. For example, a state Medicaid Agency or state or local health department may need to know about specific types of challenges faced by patients receiving opioid therapy treatment, such as co-occurring medical or psychiatric conditions, or social and economic factors that impede treatment or recovery. An agency may need this kind of information to recommend or mandate improved medical care approaches; to target limited resources more effectively to care for patients; or to adjust specific Medicaid or other program policies or processes related to payment or coverage to facilitate adequate coverage and payment. Government agencies may also wish to know how many patients test positive for a new and harmful illicit drug, and how part 2 programs are actually treating those patients, as an input to agency decisions aimed at improving

[13] The Common Rule governs research conducted or supported (*i.e.,* funded) by the 16 departments and agencies that issued the Common Rule.

quality of care. For example, agencies may wish to modify requirements for part 2 programs, educate or provide additional oversight of part 2 providers, and/or update corresponding payment or coverage policies. Third-party payers covering patients in a part 2 program may have similar objectives for obtaining part 2 information.

Current regulations allow part 2 programs to share information for the purposes described above in two ways, using either de-identified or identifiable information. Only SUD records containing patient identifying information are subject to part 2 protections, and therefore a part 2 program or other lawful holder may share non-identifiable information with government agencies (federal, state and local) for many types of activities.

SAMHSA encourages the use of de-identified or non-identifiable information whenever possible. However, it may be time consuming, labor intensive, or technologically difficult for part 2 programs to create, and for government agencies to obtain quickly, data that does not contain part 2 identifying information. It may be too cumbersome or cost prohibitive for part 2 programs to provide the kind of data necessary in a de-identified format. It also may be challenging for part 2 programs to provide information quickly in more urgent situations, without potentially diverting resources away from patient care.

Patient identifying may also be used to help agencies and third-party payers improve care in certain circumstances. Under current regulations at § 2.53(a) and (b), federal, state, and local government agencies that have the authority to regulate or that provide financial assistance to part 2 programs, and third-party payers with covered patients in part 2 programs, may receive patient identifying information in the course of conducting audits or evaluations. Additionally, patient identifying information may be disclosed to individuals and entities to conduct Medicare, Medicaid, or CHIP audits or evaluations under § 2.53(c). Thus, a Medicaid agency may evaluate the part 2 providers that participate in its Medicaid program; a state health department may audit the facilities it licenses pursuant to its regulatory authority; and a health plan may review part 2 programs that serve its enrollees.

The current regulations do not define audit and evaluation, nor do they direct the manner in which evaluations are carried out, as noted by § 2.2(b)(2). Nevertheless, SAMHSA believes that the concept of audit or evaluation is not restricted to reviews that examine individual part 2 program performance. They may also include periodic reviews of part 2 programs to determine if there are any needed actions at an agency level to improve care and outcomes across the individual part 2 programs the agency regulates or supports financially. Likewise, audits or evaluations may include reviews to determine if there are needed actions at a health plan level to improve care and outcomes for covered patients in part 2 program. In other words, audits or evaluations may be conducted with a goal to identify additional steps agencies or third-party payers should be taking to support the part 2 programs and their patients. This includes reviews that allow agencies or third-party payer entities to identify larger trends across part 2 programs, in order to respond to emerging areas of need in ways that improve part 2 program performance and patient outcomes.

SAMHSA proposes to clarify that under § 2.53, government agencies and third-party payer entities would be permitted to obtain part 2 records without written patient consent to periodically conduct audits or evaluations for purposes such as identifying agency or health plan actions or policy changes aimed at improving care and outcomes for part 2 patients (*e.g.,* provider education, recommending or requiring improved health care approaches); targeting limited resources more effectively to better care for patients; or adjusting specific Medicaid or other insurance components to facilitate adequate coverage and payment. These agencies and third-party payers are required to abide by the restrictions on disclosure and other relevant confidentiality requirements outlined in § 2.53. Additionally, SAMHSA does not believe it is generally necessary to conduct these types of audits or evaluations on a routine or ongoing basis. Rather, we would generally expect that they would be performed periodically, unless they are required by applicable law or other compelling circumstances exist, such as unique cases in which an oversight agency determines there is a need for ongoing review. Information disclosed for the purpose of a program audit or evaluation may not be used to directly provide or support care coordination. As stated previously (83 FR 243), SAMHSA believes it is important to maintain patient choice in disclosing information to health care providers with whom patients have direct contact. Agencies or health plans could, for example, use information from the aggregated results of part 2 program evaluations to determine that a new benefit or payment category is needed in order to facilitate better care coordination.

The preamble to the 2017 final rule noted that the authorizing statute for part 2 does not provide a general exception to the consent requirement for disclosure of SUD records, for the purpose of sharing records with public health officials (82 FR 6079). Furthermore, the preamble also noted that SAMHSA does not have the statutory authority to authorize routine disclosure of part 2 information for public health purposes (82 FR 6079). SAMHSA emphasizes that audits or evaluations using aggregated data for such purposes described above are distinct from a broader public health exception. Specifically, under current regulations, part 2 programs may share information with the agencies that have the authority to regulate or provide financial support to the part 2 program, in order to safeguard or improve the care and outcomes for current and future patients in those programs, or to ensure the integrity of the funding program and the appropriate use of financial support by the part 2 program. A broader public health exception would conceivably enable part 2 programs to share identifiable information with any public health agency, regardless of its relationship with the part 2 program, for many types of purposes (*e.g.,* preventative efforts aimed at a wider population).

To clarify allowable program evaluation activities using patient identifying information, SAMHSA proposes to redesignate current §§ 2.53(c) and (d) as §§ 2.53(e) and (f), respectively, and insert a new § 2.53(c) titled: ''*Activities Included.*'' Proposed new paragraph § 2.53(c)(1) would specify that audits or evaluations may include periodic activities to identify actions that an agency or third-party payer entity can make, such as changing its policies or procedures to improve patient care and outcomes across part 2 programs; targeting limited resources more effectively; or determining the need for adjustments to payment policies for the care of patients with SUD. This change would clarify that disclosures of patient records by a part 2 program to an agency or third-party payer entity are permitted for these purposes without patient consent, pursuant to this section.

Second, SAMHSA has received feedback that stakeholders are unclear about whether § 2.53 allows federal, state, and local government agencies and third-party payers to have access to patient information for activities related

to reviews of appropriateness of medical care, medical necessity, and utilization of services. As described above, the current regulations allow information to be disclosed to certain federal, state, and local governmental agencies and third-party payers for audit or evaluation purposes, as long as they agree to specific restrictions outlined in the regulations to limit disclosure or use of the records and preserve patient confidentiality. While neither the statute nor the regulations define audit or evaluation, these terms should and do include audits or evaluations to review whether patients are receiving appropriate services in the appropriate setting. Assessing whether a part 2 program provides appropriate care is a necessary part of any comprehensive part 2 program audit or evaluation. Government agencies may be charged with conducting such reviews for licensing or certification purposes or to ensure compliance with federal or state laws, as may private not-for-profit entities granted authority under the applicable statutes or regulations to carry out such work in lieu of the agencies. Third-party payers also have a stake in the programmatic integrity, as well as the clinical quality, of the part 2 programs that serve the patients they cover. Therefore, SAMHSA proposes to insert a new § 2.53 (c)(2) that clarifies audit and evaluations under this section may include, but are not limited to, reviews of appropriateness of medical care, medical necessity, and utilization of services. Stakeholders are also referred to § 2.33, which allows disclosure of information for payment and/or health care operations activities with a patient's consent.

Third, stakeholders have expressed confusion about whether part 2 programs may disclose information for audit or evaluation purposes to the larger health care organizations in which they operate. For example, Medicare Condition of Participation regulations at 42 CFR 482.21 require individual hospitals to conduct quality assessment and performance improvement (QAPI) programs that reflect the complexity of each hospital's organization and services, and which involve all hospital departments and services. QAPI programs are ongoing, hospital-wide, data-driven efforts that focus on addressing high-risk, high-volume or problem prone areas that affect health outcomes, patient safety, or quality of care.

The part 2 regulations provide ample leeway for part 2 programs to share information within their larger health care organizations for these and other types of evaluations. Under § 2.53(a)(2), part 2 programs may determine that individuals or entities within their health care organizations are qualified to conduct audits and evaluations and may share information pursuant to such reviews. Additionally, § 2.12(c)(3) states that, ''*The restrictions on disclosure in the regulations in this part do not apply to communications of information between or among personnel having a need for the information in connection with their duties that arise out of the provision of diagnosis, treatment, or referral for treatment of patients with substance use disorders if the communications are:*

(i) *Within a part 2 program; or*

(ii) Between a part 2 program and an entity that has direct administrative control over the program.'' The phrase ''direct administrative control'' refers to the situation in which a substance use disorder unit is a component of a larger behavioral health program or of a general health program.''

In order to eliminate any remaining misunderstanding, however, SAMHSA proposes to expand the regulatory language to explicitly clarify that this type of information sharing is permitted under the regulations. Specifically, we propose to add language to § 2.53(a)(2) to state that, ''Auditors may include any non-part 2 entity that has direct administrative control over the part 2 program or lawful holder.'' Additionally, SAMHSA proposes to include similar language in new subsection (b)(2)(iii). We believe that the proposed changes will help to clarify that in these situations, identifiable patient diagnosis or treatment information can be shared with personnel from an entity with direct administrative control over the part 2 program, where those persons, in connection with their audit or evaluation duties, need to know the information.

Fourth, while the regulations at §§ 2.53(a)(1)(ii) and (b)(2)(ii) specifically delineate that information may be disclosed to quality improvement organizations performing utilization or quality control reviews, these provisions do not explicitly include other types of entities that are responsible for quality assurance. For example, the regulations for audit and evaluation do not describe entities, such as health care organization accrediting or certification bodies, that may need to review patient records to evaluate whether a part 2 program meets quality and safety standards. To ensure that stakeholders understand that disclosure to these types of organizations is permitted, SAMHSA proposes to insert a new § 2.53(d) stating, ''*Quality Assurance Entities Included.* Entities conducting audits or evaluations in accordance with §§ 2.53(a) and (b) may include accreditation or similar types of organizations focused on quality assurance.''

Additionally, SAMHSA understands that some federal, state, and local government agencies face challenges in meeting statutory or regulatory mandates that require them to conduct audits or evaluations involving part 2 information. For example, the Centers for Medicare & Medicaid Services conducts risk adjustment data validation in connection with the risk adjustment program it is required to operate in accordance with section 1343 of the Patient Protection and Affordable Care Act, 42 U.S.C. 18063 and implementing regulations. Under risk adjustment data validation, health insurance issuers are lawful holders of part 2 identifying information and may be required to provide it to CMS or its contractors. Therefore, SAMHSA is proposing to insert a new § 2.53(g) to permit patient identifying information to be disclosed to federal, state, and local government agencies, as well as their contractors, subcontractors, and legal representatives of such agencies, in the course of conducting audits or evaluations mandated by statute or regulation, if those audits or evaluations cannot be carried out using de-identified information.

In addition to these changes, SAMHSA proposes to update language related to quality improvement organizations. Specifically, at §§ 2.53(a)(1)(ii) and (b)(2)(ii), it proposes to amend the language to align it with the current QIO regulations.

K. Orders Authorizing the Use of Undercover Agents and Informants (§ 2.67)

Under the 1975 final rule, the placement of undercover agents or informants in a part 2 program was largely prohibited, other than as specifically authorized by a court order for the purpose of investigating a part 2 program, or its agents or employees, for allegations of serious criminal misconduct. At the time the 1975 final rule was promulgated, it was noted that, although the use of undercover agents and informants in treatment programs was ordinarily to be avoided, there occasionally arise circumstances where their use may be justified (42 FR 27809). More narrowly, it was noted that the authorizing statute, by itself, did not forbid the use of undercover agents or informants, and that the express statutory prohibition against direct disclosure of patient records is

nevertheless subject to the power of the courts to authorize such disclosures under 42 U.S.C. 290dd–2(b)(2)(C). Building on these statutory considerations, it was concluded that the power to regulate the placement of undercover agents and informants is limited, and that the importance of criminal investigation of part 2 programs offers a legitimate policy basis for allowing the placement of undercover agents or informants in such programs, given a showing of good cause in specific instances. As explained in the preamble to the 1975 final rule, experience has demonstrated that medical personnel, no matter how credentialed, can engage in the illicit sale of drugs on a large scale, and that the use of undercover agents and informants is normally the only effective means of securing evidence sufficient to support a successful prosecution in such instances. Based on over 40 years of experience since then, SAMHSA believes it is still the case that medical personnel sometimes engage in the illicit sale or transfer of drugs, and that a process for authorizing undercover agents is important to ensure the safety of patients in these part 2 programs.

Under the 1975 final rule, a 60-day time limitation with regard to the placement of undercover agents and informants in a part 2 program was imposed, with the opportunity for an applicant to seek an extension of the court order, for a total of up to 180 days (42 FR 27821). In the 1987 final rule, that period of placement for undercover agents and informants pursuant to a court order was extended to 6 months. This policy limitation was codified at § 2.67(d)(2).

Based on consultation with DOJ, the current policy is burdensome on, and overly restrictive of, some ongoing investigations of part 2 programs. Specifically, DOJ has stated that a typical undercover operation can often last longer than 6 months, and that 12 months is a more realistic timeframe for such operations. Therefore, SAMHSA proposes to amend § 2.67(d)(2), to extend the period for court-ordered placement of an undercover agent or informant to 12 months, while authorizing courts to further extend a period of placement through a new court order.

In addition, DOJ has stated that the current regulation text is ambiguous regarding when the 6-month, or, as proposed, 12-month period, should start and stop, in determining whether a court-order period of placement has elapsed. SAMHSA considered multiple policy options regarding the tolling of the time period for an undercover placement. We considered having the time period begin on the date of the issuance of the court order. Alternatively, SAMHSA also considered having the time period begin on the date of placement of the undercover agent. In consultations with DOJ, SAMHSA has found that there is often a lag of time between the court order and the placement of the agent, for many reasons. Therefore, starting the time period when the court order is issued could significantly curtail the length of time an agent can be undercover at a part 2 program. Furthermore, starting the time period based on date of placement of the agent would provide greater clarity and predictability to law enforcement about exactly how long an agent or informant is allowed to be in the field, since the agent is aware of the date his or her placement began, but may not be aware of the date of the court order. Thus, SAMHSA proposes to amend § 2.67(d)(2), to clarify that the proposed 12-month time period starts when an undercover agent is placed, or an informant is identified, in the part 2 program.

IV. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (PRA), agencies are required to provide a 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement can be approved by the Office of Management and Budget (OMB) for review and approval. Currently, the information collection is approved under OMB Control No. 0930–0092. The collection of information in this proposed rule has been submitted to OMB for review under section 3507(d) of the PRA, and any public comments on this collection of information should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for SAMHSA.

In order to fairly evaluate whether changes to an information collection should be approved by OMB, section 3506(c)(2)(A) of the PRA requires that SAMHSA solicit comment on the following issues: (a) Whether the information collection is necessary and useful to carry out the proper functions of the agency; (b) The accuracy of the agency's estimate of the information collection burden; (c) The quality, utility, and clarity of the information to be collected; and (d) Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

Under the PRA, the time, effort, and financial resources necessary to meet the information collection requirements referenced in this section are to be considered in rule making. SAMHSA explicitly seeks, and will consider, public comment on our assumptions as they relate to the PRA requirements summarized in this section.

This proposed rule includes changes to information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements, as defined under the PRA (5 CFR part 1320). Some of the provisions involve changes from the information collections set out in the previous regulations. Below, SAMHSA briefly discusses each proposal and whether such proposal includes changes to information collection requirements.

In section III.A. of this proposed rule, SAMHSA proposes to modify the existing definition of ''Records'' in § 2.11 to conform with other proposed revisions in this proposed rule. See section III.A. for further information about this proposal. SAMHSA does not believe this proposal will result in any change in collection of information requirements since unrecorded information is, by its nature, not collected.

In section III.B. of this proposed rule, SAMHSA proposes to amend § 2.12 to clarify in that section that non-part 2 entities may record SUD treatment about a patient in its own records without triggering part 2 provided that such providers are able to differentiate their records from those received from a part 2 program and part 2 records received from lawful holders. See section III.B. for further information about this proposal. As stated in that section, SAMHSA proposes new regulatory text to clarify existing policies; thus, SAMHSA does not propose to change any collection of information requirements. Furthermore, we believe that the clarification represents standard practice in many, if not all, part 2 programs and among other lawful holders. That is, non-part 2 entities are already either segregating or segmenting any SUD records received from a part 2 program or deciding not to do so, based on their standard operations. This proposal would merely clarify that if the non-part 2 entity does, in fact, segregate or segment these records, the recording of information about a SUD and its treatment by a non-part 2 entity does not by itself render a medical record subject to the restrictions of 42 CFR part 2. Thus, SAMHSA does not believe this proposal would result in any changes in collection of information requirements.

In section III.C. of this proposed rule, SAMHSA proposes to amend § 2.31, to allow patients to consent to disclosure of their information to entities, without naming the specific individual receiving this information on behalf of a given entity. See section III.C. for further information about this proposal. This proposal may result in providers needing to update their standard consent forms to allow for certain disclosures to such entities; that additional burden is discussed in the Regulatory Impact Analysis, below. SAMHSA believes this proposal may result in part 2 program disclosing more information to certain entities. We discuss this additional burden, in total, with the additional collection of information requirements that may result from the proposals in sections III.I., and III.J, below.

In section III.D. of this proposed rule, SAMHSA proposes to modify and streamline the language in § 2.32(a)(1), to remove the superfluous language that has contributed to confusion regarding the restrictions on re-disclosure. See section III.D. for further information about this proposal. Since part 2 providers are already required, upon disclosure, to provide a written statement notifying the recipient of the applicability of 42 CFR part 2 to any re-disclosure of the protected record, consistent with the prior revisions to part 2, including the 2017 final rule (82 FR 6106), SAMHSA does not believe this proposed modification of the language would result in any changes in collection of information requirements.

In section III.E. of this proposed rule, SAMHSA proposes to specify in regulatory text an illustrative list of 17 permitted activities under § 2.33. SAMHSA is also proposing to add to § 2.33 that other payment and/or health care operations activities not expressly prohibited under this provision are also allowed. See section III.E. for further information about this proposal. As noted in that section, SAMHSA has previously stated that these activities are permitted (83 FR 241); this proposed language would only further clarify this previously finalized policy. Therefore, SAMHSA does not believe this proposal would result in any changes in collection of information requirements.

In section III.F. of this proposed rule, SAMHSA proposes to expand the scope of § 2.34(d) to make non-OTP providers with a treating provider relationship eligible to query a central registry with their patient's consent to determine whether a patient is already receiving treatment through a member program to prevent duplicative enrollments and prescriptions for methadone or buprenorphine, as well as to prevent any adverse effects with other prescribed medications. See section III.F. for further information about this proposal. Based on SAMHSA's research, the policies and procedures governing central registries vary widely by each state; in fact, many states do not have central registries in place. Because of this lack of information, it is not possible to estimate either the number of additional queries which central registries may receive as a result of this proposal or the time or effort required to answer these queries. Therefore, it is difficult to estimate any additional collection of information requirements which may result from this proposal. Instead, SAMHSA requests that central registries and providers that would query central registries provide comments on any additional information collection requirements this proposal would cause and any resulting burden.

In section III.G. of this proposed rule, SAMHSA proposes to add a new § 2.36 permitting part 2 programs to report any data for controlled substances dispensed or prescribed to patients to PDMPs, as required by the applicable state law. See section III.G. for further information about this proposal. SAMHSA anticipates that this proposal may result in additional burden for part 2 programs choosing to report to PDMPs in two ways. If a part 2 program chooses to report to a PDMP, the program will need to update its consent forms to request consent for disclosure to PDMPs. That burden is discussed in the Regulatory Impact Analysis, below. The second part of the proposal permits part 2 programs to report any data for controlled substances dispensed to patients to PDMPs, as required by the applicable state law. To estimate the additional collection of information requirements associated with this proposal, SAMHSA used the average number of opiate treatment admissions from SAMHSA's 2014–2016 Treatment Episode Data Set (TEDS) as the estimate of the number of clients treated on an annual basis by part 2 programs (531,965). Although not all programs would need to report this information under state law or may choose to do so, SAMHSA has used this number to be conservative and comprehensive of any future burden if states require reporting in the future. TEDS ''comprises data that are routinely collected by States in monitoring their individual substance abuse treatment systems. In general, facilities reporting TEDS data are those that receive State alcohol and/or drug agency funds (including Federal Block Grant funds) for the provision of substance abuse treatment.'' [14] Although TEDS does not represent all of the admissions to part 2 programs, as reporting varies by state, SAMHSA believes it represents the vast majority of admissions. Conservatively, we assumed that each of these clients would consent to the re-disclosure of their information to PDMPs and would be dispensed medication required to be reported to a PDMP. SAMHSA assumes that part 2 programs, based on other state and federal requirements, already are required to query PDMP databases; therefore, SAMHSA does not include registration and infrastructure costs in this estimate. For example, several states require medical directors of OTPs to query their respective state PDMPs at minimum intervals, including IN, MN, MI, ND, NC, RI, TN, VT, WA, and WV.[15] Based on discussions with providers, SAMHSA also estimates that, in addition to an initial update to the PDMP database for existing patients, the PDMP database would typically need to be accessed and updated quarterly for each patient, on average. Likewise, based on discussion with providers, SAMHSA believes accessing and reporting to the database would take approximately 2 minutes per patient, resulting in a total annual burden of 8 minutes (4 database accesses/updates × 2 minutes per access/update) or 0.133 hours annually per patient. For the labor costs associated with this activity, SAMHSA used the average wage rate of $23.04 [16] per hour for substance abuse and behavioral disorder counselors (multiplied by two to account for benefits and overhead costs) to estimate a total burden in year 1 for the initial update of the PDMP database of $817,098 (531,965 clients × 2 minutes (0.033 hrs) per access/update × $46.08/hr) and an annual burden in each year of $3,268,391 (531,965 clients × 0.133 hours × $46.08/hr). Therefore, we estimate that this proposal will result in an additional cost of $4,085,489 ($817,098 + $3,268,391), as reflected in Table 1, below.

In section III.H. of this proposed rule, SAMHSA proposes an addition to § 2.51 to allow disclosure of patient information during natural and major disasters. See section III.H. for further

[14] *https://wwwdasis.samhsa.gov/webt/information.htm.*

[15] *https://www.pdmpassist.org/pdf/Resources/Use%20of%20PDMP%20data%20by%20opioid%20treatment%20programs.pdf.*

[16] Bureau of Labor Statistics, U.S. Department of Labor, *Occupational Employment Statistics,* May 2018, Substance Abuse and Behavioral Disorder Counselors, Standard Occupations Classification code (21–1018) [*www.bls.gov/oes/current/oes_nat.htm*].

information about this proposal. Because this proposal by its very nature does not require additional consent requirements or other paperwork, SAMHSA does not believe this proposal would result in any changes in collection of information requirements. Providers, under their own policies and procedures or other laws, may need to keep track of the disclosures made, which, could require additional paperwork. Such requirements, however, are not discussed in this rule, nor does SAMHSA have any way of estimating them, as policies and procedures may vary across providers.

In section III.I., and section III.J. of this proposed rule, SAMHSA proposes to amend § 2.52 and § 2.53 to allow certain disclosures without patient consent. First, in section III.I. of this proposed rule, SAMHSA proposes to modify the text of § 2.52(a) in order to allow research disclosures of part 2 data from a HIPAA covered entity or business associate to individuals and organizations who are neither HIPAA covered entities, nor subject to the Common Rule, provided that any such data will be disclosed in accordance with the HIPAA Privacy Rule. See section III.I. for further information about this proposal. Second, SAMHSA proposes to clarify allowed disclosures for audit and evaluation purposes under § 2.53 for activities undertaken by a federal, state, or local governmental agency or third-party payer to improve the delivery of care, to target limited resources more effectively and/or to determine the need for adjustments to payment policies for the care of patients with SUD. SAMHSA also proposes language to clarify that (1) audits and evaluations may include reviews of appropriateness of medical care, medical necessity, and utilization of services; (2) part 2 programs may disclose information, without consent, to non-part 2 entities that have direct administrative control over such part 2 programs; and (3) entities conducting audits or evaluations in accordance with §§ 2.53(a) and (b) may include accreditation or similar types of organizations focused on quality assurance. Further, SAMHSA proposes to permit patient identifying information to be disclosed to government agencies in the course of conducting audits or evaluations mandated by statute or regulation, if those audits or evaluations cannot be carried out using de-identified information. Finally, SAMHSA is proposing to update language related to QIOs. See section III.J. for further information about these proposals. As stated in that section, SAMHSA believes that the regulations already permit audits and evaluations for reviews of appropriateness of medical care, medical necessity, and utilization of services. Likewise, SAMHSA also believes that the current regulations permit disclosure to a non-part 2 entity with direct administrative control over a part 2 program and to accreditation and similar organizations. Therefore, although SAMHSA proposes language to clarify any confusion that may exist, it believes that these activities are already permitted and that they would not, therefore, result in any new collection of information requirements or any other burden. It also believes updating the QIO language would not create new collection of information requirements or increase burden. As noted above, SAMHSA also proposes to allow patient identifying information to be disclosed to government agencies and third-party payers periodically to identify needed actions at the agency or payer level, and to contractors hired by health insurance issuers and government agencies in the course of conducting audits or evaluations mandated by statute or regulation, if those audits and evaluations cannot be carried out using de-identified information. In section III.C of this proposed rule, SAMHSA also proposes to allow disclosure to entities with patient consent. SAMHSA believes that the proposals in sections III.C., I, and J, may result in additional collection of information requirements, as part 2 programs may be asked to disclose information to agencies and entities as a result of these proposals. Although SAMHSA is not able to anticipate the increase in these disclosures, to estimate the potential cost, we first estimated the number of potentially impacted part 2 programs based on the anticipated number of requests for a disclosure in a calendar year. SAMHSA used the average number of substance abuse treatment admissions from SAMHSA's 2014–2016 TEDS (1,658,732) as the number of patients treated annually by part 2 programs. SAMHSA then estimated that part 2 programs would need to disclose average of 15 percent of these records (248,810) as a result of these proposals. We then estimated that 10 percent or 24,881 (248,810 × 10%) of impacted part 2 programs would use paper records to comply with these requests for disclosure reports while the remaining 90% or 223,929 (248,810 × 90%) would use a health IT system. For part 2 programs using paper records, SAMHSA expects that a staff member would need to gather and aggregate the information from paper records, and manually track disclosures; for those part 2 programs with a health IT system, we expect records and tracking information would be available within the system.

SAMHSA assumed medical record technicians would be the staff with the primary responsibility for compiling the information for a list of disclosures from both paper records and health IT systems. The average hourly rate for medical record and health information technicians is $21.16.[17] In order to account for benefits and overhead costs associated with staff time, we multiplied the hourly wage rate by two for a total average hourly wage rate of $42.32. Absent any existing information on the amount of time associated with producing a list of disclosures, SAMHSA assumed it would take a medical record technician 4 hours, on average, to produce the information from paper records at a cost of $169.28 (4 hours × $42.32/hr) and 0.25 hours, on average, to produce information from a health IT system at a cost of $10.58 (0.25 hours × $42.32/hr). Finally, SAMHSA assumes that agencies will request that these disclosures be made on secure, online databases, and would not require notification via email or first class mail, thus resulting in no additional cost to transmit this information. Based on these assumptions, SAMHSA estimates that this proposal would result in an additional cost of $6,581,025 {(24,881 requests × $169.28 per request) + (223,929 requests × $10.58 per request)}, as reflected in Table 1, below.

In section III.K. of this proposed rule, SAMHSA proposes to amend § 2.67 to extend the period for court-ordered placement of an undercover agent or informant to 12 months, while authorizing courts to further extend a period of placement through a new court order. In that section, SAMHSA also proposes to explicitly state when the 12-month period begins to run. See section III.K. for further information about this proposal. The requirements of the Paperwork Reduction Act do not apply ''During the conduct of a Federal criminal investigation or prosecution, or during the disposition of a particular criminal matter'' (5 CFR 1320.4(a)(1)), or to information collections by the federal judiciary or state courts (5 CFR 1320.3(a)), except in the rare case that those information collections and

[17] Bureau of Labor Statistics, U.S. Department of Labor, *Occupational Employment Statistics,* May 2018, Medical Records and Health Information Technicians, Standard Occupations Classification code (29–2071) [*www.bls.gov/oes/current/oes_nat.htm*].

conducted or sponsored by an executive branch department (5 CFR 1320.3(a)).

Below, SAMHSA summarizes the estimated cost of the change in collection of information requirements discussed above.

TABLE 1—ANNUALIZED BURDEN ESTIMATES

	Annual number of respondents	Responses per respondent	Total responses	Hours per response	Total hourly burden	Hourly wage cost	Total hourly cost
§ 2.36	531,965	5	2,659,825	0.033	88,661	$46.08	$4,085,489
§§ 2.31, 2.52, 2.53 (Paper Records)	24,881	1	24,881	4	99,524	42.32	4,211,856
§§ 2.31, 2.52, 2.53 (Health IT Systems)	223,929	1	223,929	0.25	55,982	42.32	2,369,169
Total	780,775		2,908,633		244,167		10,666,513

V. Response to Comments

Because of the large number of public comments SAMHSA anticipates receiving on this **Federal Register** document, it will not be able to acknowledge or respond to them individually. SAMHSA will consider all comments received by the date and time specified in the **DATES** section of this proposed rule. When SAMHSA proceeds with a subsequent document, it will respond to the comments in the preamble to that document.

VI. Regulatory Impact Analysis

A. Statement of Need

This proposed rule is necessary to update the Confidentiality of Substance Use Disorder Patient Records regulations at 42 CFR part 2 to respond to the emergence of the opioid crisis, with its catastrophic impact on patients and corresponding clinical and safety challenges for providers. The goal of this proposed rule is to clarify existing requirements in 42 CFR part 2 and reduce barriers to information sharing to ensure appropriate care and patient safety.

As noted in the tables below, SAMHSA believes that the proposed policies in this proposed rule, if finalized, would result in some near-term non-recurring and annual recurring financial burdens. We have weighed these potential burdens against the potential benefits, and believe, on balance, the potential benefits outweigh any potential costs. Specifically, the proposals in this rule are meant to allow providers to better understand the needs of their patients by clarifying the requirements under part 2 and to break down barriers to information sharing among part 2 programs and other providers. SAMHSA believes this information sharing would benefit patients because both part 2 programs and other providers would be able to more fully understand the patient's health history and avoid dangerous and even lethal adverse drug events. In addition, these proposals are also intended to protect and empower patients by giving them more control over their consent and control of their records, for example, by allowing them to consent to disclosure to entities, should they so choose. Furthermore, in drafting these proposals, SAMHSA was cognizant of privacy concerns and specifically drafted these proposals to protect the privacy of patients; for example, the proposal regarding OTP provider disclosure to PDMPs requires the consent of the patient. SAMHSA believes that increasing patient safety and the empowerment of patients would lead to better health outcomes, therefore balancing any burdens discussed below and any remaining privacy concerns. ÷

B. Overall Impact

SAMHSA has examined the impacts of this rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999) and the Congressional Review Act (5 U.S.C. 804(2)), and Executive Order 13771 (Reducing and Controlling Regulatory Costs). Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Section 3(f) of Executive Order 12866 defines a ''significant regulatory ''action'' as an action that is likely to result in a rule: (1) Having an annual effect on the economy of $100 million or more in any 1 year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. A regulatory impact analysis must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). This rule does not reach the economic threshold and thus, is not considered a major rule to which Executive Orders 12866 or 13771 apply.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses (including independent contractors), nonprofit organizations, and small governmental jurisdictions. Individuals and states are not included in the definition of a small entity. The proposed rule would allow patients to consent to disclosure of their information to entities; permit part 2 programs to report data for controlled substances dispensed to patients to PDMPs with patient consent; and allow part 2 programs to comply with disclosure requests from federal, state, or local governmental agencies, third-party payers and researchers. These proposals will result in additional reporting burden as well as near-term non-recurring and annual recurring regulatory impacts to part 2 programs. As shown in Table 2 and as discussed in the Collection of Information Requirements (Section IV), we estimate

the average cost impact per substance abuse treatment admission for staff training, updates to consent forms, and disclosures to agencies will be $4.09 in year 1 ($6,782,493 ÷ 1,658,732 patients) and $3.97 in years 2 through 10 ($6,581,025 ÷ 1,658,732 patients). For opiate treatment patients, we also estimate the average cost impact for disclosure to PDMPs to be $7.68 per patient in year 1 ($4,085,489 ÷ 531,965 patients) and $6.14 in years 2 through 10 ($3,268,391 ÷ 531,965 patients). When this is added to the costs for staff training, updates to consent forms, and disclosures to agencies, the aggregate cost impact per opiate treatment admission is $11.77 in year 1 and $10.11 in years 2 through 10. While we are unable to determine how many part 2 programs qualify as small businesses based on the minimum threshold for small business size of $38.5 million (*https://www.sba.gov/federal-contracting/contracting-guide/size-standards*), we believe that on a per-patient basis, this proposed rule will not significantly affect part 2 treatment programs of any size. SAMHSA has not prepared an analysis for the RFA because it has determined, and the Secretary certifies, that this rule, if finalized as proposed, would not have a significant economic impact on a substantial number of small entities.

As further described in section IV., above, when estimating the total costs associated with changes to the 42 CFR part 2 regulations, SAMHSA estimated costs related to collection of information for the proposed changes to §§ 2.31, 2.52, 2.53, and (new) 2.36. In addition, we estimate that there may be additional burden related to updating consent forms as a result of the proposals in §§ 2.31 and (new) 2.36. In section III.C. of this proposed rule, SAMHSA proposes to amend § 2.31, to allow patients to consent to disclosure of their information to entities, without naming the specific individual receiving this information on behalf of a given entity. In section III.G. of this proposed rule, SAMHSA proposes to add a new § 2.36, permitting part 2 programs to report to PDMPs; patients must consent to disclosure before this reporting can occur. See sections III.C. and III.G. for further information about these proposals. These proposals may result in providers needing to update their standard consent forms to allow for certain disclosures. As stated in the 2016 proposed rule (81 FR 7009 through 7010), based from a 2008 study from the Mayo Clinic Health Care Systems,[18] the reported cost to update authorization forms was $0.10 per patient. Adjusted for inflation,[19] costs associated with updating the patient consent forms in 2019 would be $0.12 per patient (2018 dollars). SAMHSA used the average number of substance abuse treatment admissions from SAMHSA's 2014–2016 TEDS (1,658,732) as an estimate of the number of clients treated on an annual basis by part 2 programs. Therefore, the total cost burden associated with updating the consent forms to reflect the updated 42 CFR part 2 regulations is estimated to be a one-time cost of $199,048 (1,658,732 * $0.12), as reflected in Table 2, below. Further, the proposal to amend § 2.31 is likely to result in a decrease in the number of consents to disclosures that patients must make, due to the ability to consent to entities without naming a specific individual. Because of a lack of data regarding the number of consents patients have made to multiple individuals within the same entity which would become duplicative as a result of the proposed amendment, we are unable to quantify the reduction in burden related to the expected reduction in the number of required consents.

In prior proposed rules (*e.g.,* 81 FR 7009), SAMHSA estimated one hour of training per staff to achieve proficiency in the 42 CFR part 2 regulations. SAMHSA assumes that training associated with the new requirements discussed in this proposed rule can be accomplished within the existing one hour of training, therefore we are not proposing any additional costs for training counseling staff.

With regard to training materials, SAMHSA will assume responsibility for updating and distributing training materials in year 1 at no cost to part 2 programs. A 2017 study by the Association for Talent Development determined the average time to develop training materials for one hour of classroom instruction is 38 hours.[20] Because we assume that SAMHSA will be updating rather than developing training materials, we estimate the time for training development to be one-half that of developing new materials, or 19 hours and would be performed by an instructor with experience in healthcare at the average wage rate of $63.71 per hour for a health specialty teacher[21] and multiplied the average wage rate by 2 in order to account for benefits and overhead costs. Based on these assumptions, the updating of training materials is estimated to cost $2,421 (19 hours × $127.42/hour). SAMHSA estimates that the updates to consent forms (§§ 2.31 and 2.36) would be one-time costs the first year the final rule would be in effect and would not carry forward into future years. Staff training costs other than those associated with updating training materials are assumed to be ongoing annual costs to part 2 programs, also beginning in the first year that the final rule is in effect. Costs associated with disclosing information to PDMPs (§ 2.36) and agencies (§ 2.53) are assumed to be ongoing annual costs to part 2 programs.

In section III.K. of this proposed rule, SAMHSA proposes to amend § 2.67 to extend the period for court-ordered placement of an undercover agent or informant to 12 months, while authorizing courts to further extend a period of placement through a new court order. In that section, SAMHSA also proposes to explicitly state when the 12-month period begins to run. See section III.K. for further information about this proposal. Since the requirements for seeking this court order would be the same, and the proposal would merely be extending the time of the court order, SAMHSA does not believe this proposal will result in any additional regulatory burden.

Based on the above, SAMHSA estimates in the first year that the final rule would be in effect, the costs associated with the proposed updates to 42 CFR part 2 would be $10,867,982 as shown in Table 2. In years 2 through 10, SAMHSA estimates that costs would be $9,849,415. Over the 10-year period of 2019–2028, the total undiscounted cost of the proposed changes would be $99,512,721 in 2018 dollars. As shown in Table 3, when future costs are discounted at 3 percent or 7 percent per year, the total costs become approximately $85.0 million or $70.1 million, respectively. These costs are presented in the tables below.

[18] Williams, A.R., Herman, D.C., Moriarty, J.P., Beebe, T.J., Bruggeman, S.K., Klavetter, E.W. & Bartz, J.K. (2008). HIPAA costs and patient perceptions of privacy safeguards at Mayo Clinic. *Joint Commission Journal on Quality and Patient Safety, 34*(1), 27–35.

[19] *https://www.bls.gov/cpi/tables/supplemental-files/historical-cpi-u-201905.pdf.*

[20] *https://www.td.org/insights/how-long-does-it-take-to-develop-one-hour-of-training-updated-for-2017.*

[21] Bureau of Labor Statistics, U.S. Department of Labor, *Occupational Employment Statistics,* May 2018, Health Specialty Teachers, Postsecondary, Standard Occupations Classification code (25–1071) [*www.bls.gov/oes/current/oes_nat.htm*].

TABLE 2—TOTAL COST OF 42 CFR PART 2 REVISIONS

Year	Disclosure to PDMPs	Staff training costs	Updates to consent forms	Disclosures to agencies	Total costs
2019	$4,085,489	$2,421	$199,048	$6,581,025	$10,867,982
2020	3,268,391	0	0	6,581,025	9,849,415
2021	3,268,391	0	0	6,581,025	9,849,415
2022	3,268,391	0	0	6,581,025	9,849,415
2023	3,268,391	0	0	6,581,025	9,849,415
2024	3,268,391	0	0	6,581,025	9,849,415
2025	3,268,391	0	0	6,581,025	9,849,415
2026	3,268,391	0	0	6,581,025	9,849,415
2027	3,268,391	0	0	6,581,025	9,849,415
2028	3,268,391	0	0	6,581,025	9,849,415
Total	33,501,007	2,421	199,048	65,810,245	99,512,721

TABLE 3—TOTAL COST OF 42 CFR PART 2 REVISIONS—ANNUAL DISCOUNTING

Year	Total costs	Total cost with 3% discounting	Total cost with 7% discounting
2019	$10,867,982	$10,551,439	$10,156,992
2020	9,849,415	9,284,019	8,602,861
2021	9,849,415	9,013,610	8,040,057
2022	9,849,415	8,751,078	7,514,072
2023	9,849,415	8,496,192	7,022,497
2024	9,849,415	8,248,730	6,563,081
2025	9,849,415	8,008,476	6,133,721
2026	9,849,415	7,775,219	5,732,449
2027	9,849,415	7,548,757	5,357,429
2028	9,849,415	7,328,890	5,006,943
Total	99,512,721	85,006,411	70,130,104

C. Alternatives Considered

In drafting this proposed rule, SAMHSA considered potential policy alternatives and, when possible, proposed the least burdensome alternatives. For example, in section III.B. of this proposed rule, we considered specifically proposing the technological and operational requirements required for segmenting records but decided to allow providers more latitude to define their best practices, understanding that specific requirements could pose more burden, specifically to small and rural providers. In section III.C. of this proposed rule, SAMHSA also considered only allowing patients to allow disclosure to state, federal, and local government entities that provide benefits. Instead, however, it decided to propose to allow patients to more broadly specify disclosure to entities, so that patients can more widely control their information. On balance, SAMHSA believes that the proposals in this rule most appropriately balance the often-competing interests of burden, privacy, and patient safety.

D. Conclusion

SAMHSA is proposing to amend 42 CFR part 2. With respect to our proposal to revise the regulations, SAMHSA does not believe that the proposal would have a significant impact. As discussed above, we are not preparing an analysis for the RFA because SAMHSA has determined, and the Secretary certifies, that this proposed rule would not have a significant economic impact on a substantial number of small entities. SAMHSA is not preparing an analysis for section 1102(b) of the RFA because it has determined, and the Secretary certifies, that this proposed rule would not have a significant impact on the operations of a substantial number of small rural hospitals. In addition, SAMHSA does not believe this rule imposes substantial direct effects on (1) states, including subdivisions thereof, (2) the relationship between the federal government and the states, or (3) the distribution of power and responsibilities among the various levels of government. Therefore, the requirements of Executive Order 13132 on federalism would not be applicable.

SAMHSA invites public comments on this section and requests any additional data that would help it to determine more accurately the impact on individuals and entities of the proposed rule. In accordance with the provisions of Executive Order 12866, this proposed rule has been reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 2

Alcohol abuse, Alcoholism, Drug abuse, Grant programs—health, Health records, Privacy, Reporting and recordkeeping requirements.

VII. Regulation Text

For the reasons set forth in the preamble, the Department of Health and Human Services proposes to amend 42 CFR part 2 to read as follows:

PART 2—CONFIDENTIALITY OF SUBSTANCE USE DISORDER PATIENT RECORDS

■ 1. The authority citation for part 2 continues to read as follows:

Authority: Sec. 408 of Pub. L. 92–255, 86 Stat. 79, as amended by sec. 303(a), (b) of Pub L. 93–282, 83 Stat. 137, 138; sec. 4(c)(5)(A) of Pub. L. 94–237, 90 Stat. 244; sec. 111(c)(3) of Pub. L. 94–581, 90 Stat. 2852; sec. 509 of Pub. L. 96–88, 93 Stat. 695; sec. 973(d) of Pub. L. 97–35, 95 Stat. 598; and transferred to sec. 527 of the Public Health Service Act

by sec. 2(b)(16)(B) of Pub. L. 98–24, 97 Stat. 182 and as amended by sec. 106 of Pub. L. 99–401, 100 Stat. 907 (42 U.S.C. 290ee–3) and sec. 333 of Pub. L. 91–616, 84 Stat. 1853, as amended by sec. 122(a) of Pub. L. 93–282, 88 Stat. 131; and sec. 111(c)(4) of Pub. L. 94–581, 90 Stat. 2852 and transferred to sec. 523 of the Public Health Service Act by sec. 2(b)(13) of Pub. L. 98–24, 97 Stat. 181 and as amended by sec. 106 of Pub. L. 99–401, 100 Stat. 907 (42 U.S.C. 290dd–3), as amended by sec. 131 of Pub. L. 102–321, 106 Stat. 368, (42 U.S.C. 290dd–2).

■ 2. Amend § 2.11 by revising the definition of ''Records'' to read as follows:

§ 2.11 Definitions.

* * * * *

Records means any information, whether recorded or not, created by, received, or acquired by a part 2 program relating to a patient (*e.g.,* diagnosis, treatment and referral for treatment information, billing information, emails, voice mails, and texts), provided, however, that information conveyed orally by a part 2 program to a non-part 2 provider for treatment purposes with the consent of the patient does not become a record subject to this Part in the possession of the non-part 2 provider merely because that information is reduced to writing by that non-part 2 provider. Records otherwise transmitted by a part 2 program to a non-part 2 provider retain their characteristic as records in the hands of the non-part 2 provider, but may be segregated by that provider. For the purpose of the regulations in this part, records include both paper and electronic records.

* * * * *

■ 3. Amend § 2.12 by:
■ a. Revising paragraphs (a)(1) introductory text and (a)(1)(ii);
■ b. Adding paragraph (d)(2)(ii); and
■ c. Revising paragraphs (e)(3) and (4) introductory text.

The revisions and additions read as follows:

§ 2.12 Applicability.

(a) * * *

(1) *Restrictions on disclosure.* The restrictions on disclosure in the regulations in this part apply to any records which:

* * * * *

(ii) Contain drug abuse information obtained by a federally assisted drug abuse program after March 20, 1972 (part 2 program), or contain alcohol abuse information obtained by a federally assisted alcohol abuse program after May 13, 1974 (part 2 program); or if obtained before the pertinent date, is maintained by a part 2 program after that date as part of an ongoing treatment episode which extends past that date; for the purpose of treating a substance use disorder, making a diagnosis for that treatment, or making a referral for that treatment.

* * * * *

(d) * * *

(2) * * *

(ii) Notwithstanding paragraph (2)(i)(C) of this section, a non-part 2 treating provider may record information about a substance use disorder (SUD) and its treatment that identifies a patient. This is permitted and does not constitute a record that has been re-disclosed under part 2, provided that any SUD records received from a part 2 program or other lawful holder are segregated or segmented. The act of recording information about a SUD and its treatment does not by itself render a medical record which is created by a non-part 2 treating provider subject to the restrictions of this part 2.

* * * * *

(e) * * *

(3) *Information to which restrictions are applicable.* Whether a restriction applies to the use or disclosure of a record affects the type of records which may be disclosed. The restrictions on disclosure apply to any part 2-covered records which would identify a specified patient as having or having had a substance use disorder. The restriction on use of part 2 records to bring criminal charges against a patient for a crime applies to any records obtained by the part 2 program for the purpose of diagnosis, treatment, or referral for treatment of patients with substance use disorders. (Restrictions on use and disclosure apply to recipients of part 2 records under paragraph (d) of this section.)

(4) *How type of diagnosis affects coverage.* These regulations cover any record reflecting a diagnosis identifying a patient as having or having had a substance use disorder which is initially prepared by a part 2 provider in connection with the treatment or referral for treatment of a patient with a substance use disorder. A diagnosis prepared by a part 2 provider for the purpose of treatment or referral for treatment, but which is not so used, is covered by the regulations in this part. The following are not covered by the regulations in this part:

* * * * *

■ 4. Amend § 2.31 by revising paragraph (a)(4) to read as follows:

§ 2.31 Consent requirements.

(a) * * *

(4)(i) The name(s) of the individual(s) or the name(s) of the entity(-ies) to which a disclosure is to be made.

(ii) *Special instructions for entities that facilitate the exchange of health information and research institutions.* Notwithstanding paragraph (a)(4)(i) of this section, if the recipient entity facilitates the exchange of health information or is a research institution, a written consent must include the name(s) of the entity(-ies) and

(A) The name(s) of individual or entity participant(s); or

(B) A general designation of an individual or entity participant(s) or class of participants that must be limited to a participant(s) who has a treating provider relationship with the patient whose information is being disclosed. When using a general designation, a statement must be included on the consent form that the patient (or other individual authorized to sign in lieu of the patient), confirms their understanding that, upon their request and consistent with this part, they must be provided a list of entities to which their information has been disclosed pursuant to the general designation (*see* § 2.13(d)).

* * * * *

■ 5. Amend § 2.32 by revising paragraph (a)(1) to read as follows:

§ 2.32 Prohibition on re-disclosure.

(a) * * *

(1) This information has been disclosed to you from records protected by federal confidentiality rules (42 CFR part 2). The federal rules prohibit you from making any further disclosure of this record unless further disclosure is expressly permitted by the written consent of the individual whose information is being disclosed in this record or, is otherwise permitted by 42 CFR part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose (see § 2.31). The federal rules restrict any use of the information to investigate or prosecute with regard to a crime any patient with a substance use disorder, except as provided at §§ 2.12(c)(5) and 2.65; or

* * * * *

■ 6. Amend § 2.33 by revising paragraph (b) to read as follows:

§ 2.33 Disclosures permitted with written consent.

* * * * *

(b) If a patient consents to a disclosure of their records under § 2.31 for payment and/or health care operations activities, a lawful holder who receives such records under the terms of the written consent may further disclose those records as may be necessary for its contractors, subcontractors, or legal representatives to carry out payment

and/or health care operations on behalf of such lawful holder. Disclosures to contractors, subcontractors, and legal representatives to carry out other purposes such as substance use disorder patient diagnosis, treatment, or referral for treatment are not permitted under this section. In accordance with § 2.13(a), disclosures under this section must be limited to that information which is necessary to carry out the stated purpose of the disclosure. Examples of permissible payment and/or health care operations activities under this section include:

(1) Billing, claims management, collections activities, obtaining payment under a contract for reinsurance, claims filing, and/or related health care data processing;

(2) Clinical professional support services (*e.g.,* quality assessment and improvement initiatives; utilization review and management services);

(3) Patient safety activities;

(4) Activities pertaining to:

(i) The training of student trainees and health care professionals;

(ii) The assessment of practitioner competencies;

(iii) The assessment of provider and/or health plan performance; and/or

(iv) Training of non-health care professionals;

(5) Accreditation, certification, licensing, or credentialing activities;

(6) Underwriting, enrollment, premium rating, and other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits, and/or ceding, securing, or placing a contract for reinsurance of risk relating to claims for health care;

(7) Third-party liability coverage;

(8) Activities related to addressing fraud, waste and/or abuse;

(9) Conducting or arranging for medical review, legal services, and/or auditing functions;

(10) Business planning and development, such as conducting cost management and planning-related analyses related to managing and operating, including formulary development and administration, development or improvement of methods of payment or coverage policies;

(11) Business management and general administrative activities, including management activities relating to implementation of and compliance with the requirements of this or other statutes or regulations;

(12) Customer services, including the provision of data analyses for policy holders, plan sponsors, or other customers;

(13) Resolution of internal grievances;

(14) The sale, transfer, merger, consolidation, or dissolution of an organization;

(15) Determinations of eligibility or coverage (*e.g.,* coordination of benefit services or the determination of cost sharing amounts), and adjudication or subrogation of health benefit claims;

(16) Risk adjusting amounts due based on enrollee health status and demographic characteristics;

(17) Review of health care services with respect to medical necessity, coverage under a health plan, appropriateness of care, or justification of charges; and/or

(18) Other payment/health care operations activities not expressly prohibited in this provision.

* * * * *

■ 7. Amend § 2.34 by:

■ a. Revising paragraph (b);

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

■ c. Adding a new paragraph (d).

The revisions and addition read as follows:

§ 2.34 Disclosures to prevent multiple enrollments.

* * * * *

(b) *Use of information limited to prevention of multiple enrollments.* A central registry and any withdrawal management or maintenance treatment program to which information is disclosed to prevent multiple enrollments may not re-disclose or use patient identifying information for any purpose other than the prevention of multiple enrollments or to ensure appropriate coordinated care with a treating provider that is not a part 2 program unless authorized by a court order under subpart E of this part.

* * * * *

(d) *Permitted disclosure by a central registry to a non-member treating provider, to prevent a multiple enrollment.* When, for the purpose of preventing multiple program enrollments or duplicative prescriptions, or to inform prescriber decision making regarding prescribing of opioid medication(s) or other prescribed substances, a provider with a treating provider relationship that is not a member program asks a central registry if an identified patient is enrolled in a member program, the registry may disclose:

(1) The name, address, and telephone number of the member program(s) in which the patient is enrolled;

(2) Type and dosage of any medication for substance use disorder being administered or prescribed to the patient by the member program(s); and

(3) Relevant dates of any such administration or prescription. The central registry and non-member program treating prescriber may communicate as necessary to verify that no error has been made and to prevent or eliminate any multiple enrollments or improper prescribing.

* * * * *

■ 8. Add § 2.36 to Subpart C to read as follows:

§ 2.36 Disclosures to prescription drug monitoring programs.

Permitted disclosure by a part 2 program or other lawful holder to a prescription drug monitoring program. A part 2 program or other lawful holder is permitted to report any SUD medication prescribed or dispensed by the part 2 program to the applicable state prescription drug monitoring program if required by applicable state law. A part 2 program or other lawful holder must obtain patient consent to a disclosure of records under § 2.31 prior to reporting of such information.

■ 9. Amend § 2.51 by revising paragraph (a) to read as follows:

§ 2.51 Medical emergencies.

(a) *General rule.* Under the procedures required by paragraph (c) of this section, patient identifying information may be disclosed o medical personnel to the extent necessary to:

(1) Meet a bona fide medical emergency in which the patient's prior informed consent cannot be obtained; or

(2) Meet a bona fide medical emergency in which a part 2 program is closed and unable to provide services or obtain the prior written consent of the patient, during a temporary state of emergency declared by a state and/or federal authority as the result of a natural or major disaster, until such time that the part 2 program resumes operations.

* * * * *

■ 10. Amend § 2.52 by revising paragraph (a) to read as follows:

§ 2.52 Research.

(a) Notwithstanding other provisions of this part, including paragraph (b)(2) of this section, patient identifying information may be disclosed for the purposes of the recipient conducting scientific research if:

(1) The individual designated as director or managing director, or individual otherwise vested with authority to act as chief executive officer or their designee, of a part 2 program or other lawful holder of part 2 data, makes a determination that the recipient of the patient identifying information is:

(i) A HIPAA-covered entity or business associate that has obtained and documented authorization from the patient, or a waiver or alteration of authorization, consistent with the HIPAA Privacy Rule at 45 CFR 164.508 or 164.512(i), as applicable;

(ii) Subject to the HHS regulations regarding the protection of human subjects (45 CFR part 46), and provides documentation either that the researcher is in compliance with the requirements of the HHS regulations, including the requirements related to informed consent or a waiver of consent (45 CFR 46.111 and 46.116) or that the research qualifies for exemption under the HHS regulations (45 CFR 46.104) or any successor regulations;

(iii) a member of the workforce of a HIPAA-covered entity that requires that all employer-sponsored research carried out by members of its workforce be conducted in accordance with the requirements of the HIPAA Privacy Rule (45 CFR parts 160 an 164 Subpart E) and/or the HHS regulations regarding the protection of human subjects, and has obtained and maintained the documentation referenced in paragraph (a)(1)(i) or (ii) of this section, respectively; or

(iv) subject to the FDA regulations regarding the protection of human subjects (21 CFR parts 50 and 56) and provides documentation that the research is in compliance with the requirements of the FDA regulations, including the requirements related to informed consent or an exception to, or waiver of, consent (21 CFR part 50) and any successor regulations; or

(v) any combination of a HIPAA covered entity or business associate, and/or subject to the HHS regulations regarding the protection of human subjects, and/or subject to the FDA regulations regarding the protection of human subjects, and has met the requirements of paragraph (a)(1)(i), (ii) (iii), and/or (iv) of this section, as applicable.

(2) The part 2 program or other lawful holder of part 2 data is a HIPAA covered entity or business associate, and the disclosure is made in accordance with the HIPAA Privacy Rule requirements at 45 CFR 164.512(i).

(3) If neither paragraph (a)(1) or (a)(2) of this section apply to the receiving or disclosing party, this section does not apply.

* * * * *

■ 11. Amend § 2.53 by:

■ a. Revising paragraphs (a)(1)(ii), (a)(2), and (b)(2)(ii);;

■ b. Adding paragraph (b)(2)(iii);

■ c. Redesignating paragraphs (c) and (d) as paragraphs (e) and (f) respectively;

■ d. In newly redesignated paragraph (e)(1) introductory text, removing the reference ''paragraph (c)'' and adding in its place the reference ''paragraph (e)'';

■ e. In newly redesignated paragraph (e)(1)(iii), removing the reference ''paragraph (d)'' and adding in its place the reference ''paragraph (f)'';

■ f. In newly redesignated paragraph (e)(3)(ii)(F), removing the reference ''paragraph (c)(1)'' and adding in its place the reference ''paragraph (e)(1)'';

■ g. In newly redesignated paragraphs (e)(4) and (5), removing the reference ''paragraph (c)(2)'' and adding in its place the reference ''paragraph (e)(2)'';

■ h. In newly redesignated paragraph (e)(6), removing the reference ''paragraph (c)'' and adding in its place the reference ''paragraph (e)'';

■ i. Adding new paragraphs (c), (d), and (g).

The revisions and additions read as follows:

§ 2.53 Audit and evaluation.

(a) * * *

(1) * * *

(ii) Any individual or entity which provides financial assistance to the part 2 program or other lawful holder, which is a third-party payer covering patients in the part 2 program, or which is a quality improvement organization performing a QIO review, or the contractors, subcontractors, or legal representatives of such individual, entity, or quality improvement organization.

(2) Is determined by the part 2 program or other lawful holder to be qualified to conduct an audit or evaluation of the part 2 program or other lawful holder. Auditors may include any non-part 2 entity that has direct administrative control over the part 2 program or lawful holder.

(b) * * *

(2) * * *

(ii) Any individual or entity which provides financial assistance to the part 2 program or other lawful holder, which is a third-party payer covering patients in the part 2 program, or which is a quality improvement organization performing a QIO review, or the contractors, subcontractors, or legal representatives of such individual, entity, or quality improvement organization.

(iii) An entity with direct administrative control over the part 2 program or lawful holder.

(c) *Activities Included.* Audits and evaluations under this section may include, but are not limited to:

(1) Activities periodically undertaken by a federal, state, or local governmental agency, or a third-party payer entity, in order to:

(i) Identify actions the agency or third-party payer entity can make, such as changes to its policies or procedures, to improve care and outcomes across part 2 programs;

(ii) Target limited resources more effectively; or

(iii) Determine the need for adjustments to payment policies for the care of patients with SUD; and

(2) Reviews of appropriateness of medical care, medical necessity, and utilization of services.

(d) *Quality Assurance Entities Included.* Entities conducting audits or evaluations in accordance with paragraphs (a) and (b) of this section may include accreditation or similar types of organizations focused on quality assurance.

* * * * *

(g) Audits and Evaluations Mandated by Statute or Regulation. Patient identifying information may be disclosed to federal, state, or local government agencies, and the contractors, subcontractors, and legal representatives of such agencies, in the course of conducting audits or evaluations mandated by statute or regulation, if those audits or evaluations cannot be carried out using de-identified information.

■ 12. Amend § 2.67 by revising paragraph (d)(2) to read as follows:

§ 2.67 Orders authorizing the use of undercover agents and informants to investigate employees or agents of a part 2 program in connection with a criminal matter.

* * * * *

(d) * * *

(2) Limit the total period of the placement to twelve months, starting on the date that the undercover agent or informant is placed on site within the program. The placement of an undercover agent or informant must end after 12 months, unless a new court order is issued to extend the period of placement;

* * * * *

Dated: August 1, 2019.

Elinore F. McCance-Katz,

Assistant Secretary for Mental Health and Substance Use, Substance Abuse and Mental Health Services Administration.

Approved: August 7, 2019.

Alex M. Azar II,

Secretary, Department of Health and Human Services.

[FR Doc. 2019–17817 Filed 8–22–19; 4:15 pm]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 633

[Docket No. FTA–2019–0016]

RIN 2132–AB35

Project Management Oversight

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The Federal Transit Administration proposes to amend its project management oversight rule to make it consistent with recent statutory changes and to modify the scope and applicability of the rule. FTA seeks comments from project sponsors, the transit industry, other stakeholders, and the public on the proposed changes to the rule.

DATES: Comments must be received October 25, 2019. Any comments filed after this deadline will be considered to the extent practicable.

ADDRESSES: You may submit comments, identified by the docket number at the top of this document, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE, between 9:00 a.m. and 5:00 p.m. Eastern time, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. All comments received will be posted without change to *www.regulations.gov,* including any personal information provided. You may review the U.S. Department of Transportation's (DOT) complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Docket: For access to the docket to read background documents or comments received, go to *www.regulations.gov* at any time or to the U.S. Department of Transportation, 1200 New Jersey Ave. SE, Docket Operations, M–30, West Building Ground Floor, Room W12–140, between 9:00 a.m. and 5:00 p.m. Eastern time, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For program matters, Corey Walker, Office of Program Management, (202) 366–0826 or *corey.walker@dot.gov.* For legal matters, Mark Montgomery, Office of Chief Counsel, (202) 366–4011 or *mark.montgomery@dot.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background
II. Section-by-Section Analysis
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I. Background

Recognizing a compelling need to strengthen the management and oversight of major capital projects, in the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) (Pub. L. 100–17) (April 2, 1987), Congress authorized FTA's predecessor agency, the Urban Mass Transportation Administration (UMTA), to conduct oversight of major capital projects and to promulgate a rule for that purpose. The statute, now codified at 49 U.S.C. 5327, authorizes FTA to obtain the services of project management oversight contractors (PMOCs) to assist FTA in overseeing the expenditure of Federal financial assistance for major capital projects. Further, the statute requires FTA to promulgate a regulation that includes a definition of ''major capital project'' to identify the types of projects governed by the rule.

Accordingly, UMTA promulgated a rule for oversight of major capital projects on September 1, 1989, at 49 CFR part 633 (54 FR 36708). At that time, UMTA's capital programs were comparatively small, relative to today, totaling a little more than $2 billion annually. UMTA promulgated a regulation that defined ''major capital project'' as any project for the construction of a new fixed guideway or extension of an existing fixed guideway or a project involving the rehabilitation or modernization of an existing fixed guideway with a *total project cost* of $100 million or more. The rule limited covered projects to those receiving funds made available under sections 3, 9, or 18 of the Federal Mass Transit Act of 1964, as amended, 23 U.S.C. 103(e)(4), or section 14(b) of the National Capital Transportation Amendments of 1979. That rule is still in effect today.

By 2011, however, the annual dollar value of the Federal transit capital programs was nearly five times the level authorized under STURAA in 1987, and the number of active PMOC task orders was more than double the number in 1987. Furthermore, FTA funded a larger number of projects with a total cost of over one billion dollars that presented significant oversight challenges. Thus, on September 13, 2011, FTA published a Notice of Proposed Rulemaking (NPRM) (76 FR 56378) that proposed to enable FTA to identify more clearly the necessary management capacity and capability of a sponsor of a major capital project; spell out the many facets of project management that must be addressed in a project management plan; tailor the level of FTA oversight to the costs, complexities, and risks of a major capital project; set forth the means and objectives of risk assessments for major capital projects; and articulate the roles and responsibilities of FTA's PMOCs.

After the NPRM was published, however, the Moving Ahead for Progress in the 21st Century Act (MAP–21) (Pub. L. 112–141) (July 6, 2012) repealed the Fixed Guideway Modernization program, created the State of Good Repair program, and amended the Capital Investment Grants Program to add Core Capacity Improvement projects and streamline the New and Small Starts project development process. Moreover, MAP–21 shifted the initiation of project management oversight to the project development phase and removed the statutory requirement that recipients of financial assistance for projects with a total cost of $1 billion submit an annual financial plan. Given the fundamental changes to these competitive and formula capital programs, FTA withdrew the NPRM (78 FR 16460) to reexamine its proposed definition of major capital projects and its policy and procedures for risk assessment. Subsequently, the Fixing America's Surface Transportation (FAST) Act (Pub. L. 114–94) (December 4, 2015) further amended section 5327 to limit project management oversight to quarterly reviews, absent a finding that more frequent oversight was necessary, and mandated that the Secretary prescribe regulations outlining a process for at-risk recipients to return to quarterly reviews.

FTA has become much more knowledgeable about the risks inherent in major capital projects, having conducted its own risk assessments since 2005, witnessed some project sponsors' lack of management capacity and capability and appropriate project controls for some projects, and studied the reasons for cost and schedule changes on many major capital projects.

Consequently, FTA now proposes to amend its project management oversight rule.

First, this proposed rule would change the applicability of the regulation by shifting the definition of a ''major capital project'' from one based on the type of project or total project cost to one based on both the amount of Federal financial assistance and the total project cost, which FTA views as a more appropriate benchmark than the type of project or total capital cost of a project alone. The current definition of a ''major capital project'' under 49 CFR 633.5 applies to all construction projects for new fixed guideways or extensions of existing fixed guideways, regardless of project cost, and to fixed guideway rehabilitation and modernization projects with total project costs over $100 million. The NPRM applies a project cost threshold to all fixed guideway capital projects. As a default, the proposed rule raises the total project cost threshold to $300 million or more and requires that the project receive $100 million or more in Federal investment to be subject to project management oversight. Under this default, the number of current projects undergoing project management oversight would decrease by forty-nine, out of a total of eighty-eight major capital projects under construction, allowing FTA to focus on higher-risk projects.

Second, as described in more detail below, the NPRM amends the regulation to bring it into compliance with recent statutory changes. The proposed rule limits project management oversight to quarterly reviews, absent a finding by FTA that a recipient requires more frequent oversight, and provides a process for such a recipient to return to quarterly reviews. Additionally, the rule applies project management oversight to major capital projects receiving Federal financial assistance under any provision of Federal law. The proposed changes would have no impact on safety.

II. Summary of Provisions

Section 633.1 Purpose

This section proposes an update to reflect the mandate in 49 U.S.C. 5327(a) to perform program management oversight of major capital projects for public transportation under Chapter 53 of Title 49, United States Code, or any other provision of Federal law.

Section 633.3 Scope

This section proposes an update to reflect the mandate in 49 U.S.C. 5327(a) that the regulation applies to recipients of Federal financial assistance undertaking a major capital project for public transportation under Chapter 53 of Title 49, United States Code, or any other provision of Federal Law.

Section 633.5 Definitions

This section sets forth the definitions of some key terms applicable to this rule. FTA proposes to establish a definition for ''project development'' and remove the definitions for ''full funding agreement'' and ''FT Act.'' Also, FTA proposes to amend the current definitions for ''fixed guideway,'' ''major capital project,'' ''project management oversight,'' and ''recipient.''

The current definition of a ''major capital project'' under 49 CFR 633.5 applies to all construction projects for new fixed guideways or extensions of existing fixed guideways, regardless of project cost, and to rehabilitation and modernization projects with total project costs over $100 million. In this rule, FTA proposes to define a ''major capital project'' generally as a project to construct, expand, rehabilitate, or modernize a fixed guideway of $300 million or more that receives $100 million or more in Federal financial assistance. FTA believes it is more appropriate to apply the regulation to any given project based on the level of Federal investment in addition to total project cost, as opposed to the type of project or the total project cost alone. FTA further proposes that a project that does not meet the dollar-amount thresholds for the level of Federal investment and total project cost may be deemed a ''major capital project'' under certain circumstances.

This section would amend the definition of ''fixed guideway'' to add passenger ferries as a qualifying public transportation facility, to reflect amendments made by MAP–21 to the definition of ''fixed guideway'' under 49 U.S.C. 5302(7). FTA proposes to add a definition for ''project development'' to correspond with the MAP–21 requirement that oversight begins in this phase, as reflected in 49 U.S.C. 5327(d)(2)(A). The proposed changes to the remaining definitions, ''project management oversight'' and ''recipient,'' are simply for clarity.

Section 633.11 Covered Projects

This section would amend the current rule by omitting obsolete legal citations and extending the regulation to all major capital projects funded from any source under 49 U.S.C. Chapter 53 or any other Federal Law, as required under 49 U.S.C. 5327(a).

Section 633.13 Initiation of Project Management Oversight Services

This section would make amendments for clarity and consistency with recent statutory changes. Per 49 U.S.C. 5327(d)(2)(A), project management oversight now begins during the project development phase unless the Secretary determines that it is more appropriate to begin the oversight during another phase of the project to maximize the transportation benefits and cost savings.

Section 633.15 Access to Information

This section would make amendments for clarity.

Section 633.17 Project Management Oversight Contractor Eligibility

This section would make amendments for clarity.

Section 633.19 Exclusion From the Project Management Oversight Program

FTA proposes revising this section as it is no longer necessary to identify the administrative funding source (now in 49 U.S.C. 5338) for FTA to conduct project management oversight. Instead, this section would provide for an exclusion from the definition of ''major capital project'' for projects for which the Administrator determines that project management oversight would not benefit the Federal government or the recipient.

Section 633.21 Basic Requirement

This section would make amendments for clarity and to reflect that oversight now begins during the project development phase of the project, as required under 49 U.S.C. 5327(a).

Section 633.23 FTA Review of a Project Management Plan

This section would make amendments for clarity.

Section 633.25 Contents of a Project Management Plan

The project management plan is critical to successful management of any major capital project, throughout the development and implementation of that project. The project management plan and its sub plans further enable the sponsor's staff to effectively manage the scope, budget, schedule, and quality of the project through a set of common objectives, while managing the safety and security of the public. This section would provide a summary to clarify that a project management plan is not one-size-fits-all, but rather is based on the complexity of the project. Further, as required under 49 U.S.C. 5327(a), FTA

proposes adding three additional minimum elements to the plan: Periodic updates of the plan, the recipient's commitment to submit a quarterly project budget and schedule, and safety and security management. Additionally, based on industry best practice, FTA proposes adding the management of risks, contingencies, and insurance as an element of the plan.

Section 633.27 Implementation of a Project Management Plan

FTA's review and approval of a project management plan seeks to verify that a sponsor has all the relevant capabilities and resources in place to ensure successful management of the project using available best practices. A project management plan is a dynamic management tool that requires periodic updates when a project transitions from one phase to another, or as a result of other changes, such as turnover in personnel. This section would continue the requirement for regular reporting and clarify other requirements aimed at improving the management of a major capital project. Specifically, FTA's proposed amendments would limit oversight to quarterly reviews, as opposed to monthly reviews, but provide for more frequent oversight when the recipient fails to meet the requirements of the project management plan and the project is at risk of materially exceeding the budget or falling behind schedule. This section also would add a process for at-risk and noncompliant projects undergoing more frequent oversight to return to quarterly reviews.

Section 633.29 Project Management Plan Waivers

FTA proposes repealing this section. Instead, section 633.25 of this part, as amended, would provide sufficient flexibility to reflect FTA's practices. FTA may permit a recipient when developing a project management plan to incorporate applicable elements from a previously approved project management plan or to incorporate procedures that a recipient uses to manage other capital projects on a programmatic basis.

III. Regulatory Analyses and Notices

Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs)

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

Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review) and Department of Transportation (DOT) Regulatory Policies and Procedures

Executive Orders 12866 and 13563 direct Federal agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits—including potential economic, environmental, public health and safety effects, distributive impacts, and equity. The proposed rule would amend the definition of a ''major capital project'' under 49 CFR part 633 by raising the total project cost threshold and adding a minimum Federal share, thereby reducing the number of public transportation projects subject to project management oversight. This action complies with Executive Orders 12866 and 13563 to improve regulation.

FTA has determined that this rulemaking is not a significant regulatory action within the meaning of Executive Order 12866 and within the meaning of DOT regulatory policies and procedures. FTA has examined the potential economic impacts of this rulemaking and has determined that this rulemaking is not economically significant because it will not result in an effect on the economy of $100 million or more. Additionally, this proposed rule would not have an impact on another agency and would not materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs. This rule would not raise novel legal issues.

To calculate the benefits and annual cost savings from this proposed rule, FTA evaluated its project management oversight contracts for major capital projects from 2013 through 2018. This period was chosen to reflect changes to FTA's program management oversight procedures after MAP–21 was enacted in 2012. This period included a number of emergency relief program projects under 49 U.S.C. 5324 to repair significant damages to public transportation infrastructure resulting from Hurricane Sandy, which FTA also analyzed.

Using FTA's risk evaluation tool, FTA evaluated projects in construction during that period based on ten key risk factors to produce a risk score from 0–100. Projects were then assigned a risk range based on the calculated score, with low-risk projects in the range of 0–39, medium-risk projects from 40–55, and high-risk projects from 56–100. This evaluation indicated that a majority of high-risk projects, including eighteen of the twenty-two projects in the high-risk range, involved total project costs of over $300 million. While removing project management oversight from projects with total costs between $100 and $300 million may increase the risk of materially exceeding budget or falling behind schedule for some projects, there are currently only four high-risk projects in this range, and under the proposed rule, FTA may deem certain projects that do not meet the dollar-amount thresholds a ''major capital project'' to mitigate unacceptable risk. Additionally, reducing the number of lower-risk projects undergoing project management oversight will allow FTA to focus on higher-risk projects while yielding annual cost savings to FTA and its recipients.

FTA calculated the average total cost of oversight for projects in construction during that period that would not have qualified as major capital projects under the default threshold of this proposed rule. FTA estimates that an average of 38.3 projects annually, including emergency relief program projects, would no longer require additional oversight under the default threshold.

This proposed rule would reduce recipients' labor hours for oversight procedures, which include attending meetings, preparing quarterly reports and other requested documents, and accompanying contractors onto project construction sites. To estimate the potential cost savings for project sponsors, FTA staff examined the current projects in construction that would no longer qualify as major capital projects under the NPRM and estimated the level of effort required for oversight procedures. For two projects, FTA received input from recipients. Assuming variations in the level of effort based on the complexity of the project, FTA estimated that the labor hours required for recipients ranges from 1.7 to 2.3 times FTA's level of effort of approximately 39,477 hours per year for project management oversight procedures. Accordingly, FTA used an average factor of two and determined that the default threshold to qualify as a major capital project under the proposed rule would reduce the level of effort required for project sponsors by an average of 78,955 hours annually at a wage rate of $139.67 based on an average of the Bureau of Labor Statistics rate for Construction Managers and the PMOC loaded rate for contractors. This burden reduction would result in an annual cost savings to project sponsors of approximately $11 million.

In addition, the proposed rule would reduce the level of effort required under

FTA's project management oversight contracts and yield corresponding cost savings to FTA. Removing oversight from an average of 38.3 projects annually would yield annual cost savings to FTA of approximately $8.1 million.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354; 5 U.S.C. 601–612), FTA has evaluated the likely effects of the proposals set forth in this NPRM on small entities, and has determined that the NPRM would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

FTA has determined that this rule does not impose unfunded mandates, as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). This rule does not include a Federal mandate that may result in expenditures of $155.1 million or more in any 1 year (when adjusted for inflation) in 2012 dollars for either State, local, and tribal governments in the aggregate, or by the private sector. Additionally, the definition of ''Federal mandate'' in the Unfunded Mandates Reform Act excludes financial assistance of the type in which State, local, or tribal governments have authority to adjust their participation in the program in accordance with changes made in the program by the Federal Government. Federal public transportation law permits this type of flexibility.

Executive Order 13132 (Federalism)

Executive Order 13132 requires agencies to assure meaningful and timely input by State and local officials in the development of regulatory policies that may 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. FTA has analyzed this action in accordance with the principles and criteria contained in Executive Order 13132, and FTA determined that this action will not have a substantial direct effect or federalism implications on the States. FTA also determined that this action will not preempt any State law or regulation or affect the States' ability to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

The regulations effectuating Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this proposed rulemaking.

Paperwork Reduction Act

Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. FTA has analyzed this rule under the Paperwork Reduction Act and determined that it does not impose additional information collection requirements for the purposes of the Act above and beyond existing information collection clearances from OMB.

National Environmental Policy Act

NEPA requires Federal agencies to analyze the potential environmental effects of their proposed actions in the form of a categorical exclusion, environmental assessment, or environmental impact statement. This proposed rulemaking is categorically excluded under FTA's environmental impact procedure at 23 CFR 771.118(c)(4), which pertains to planning and administrative activities that do not involve or lead directly to construction, such as the promulgation of rules, regulations, and directives. FTA has determined that no unusual circumstances exist in this instance, and that a categorical exclusion is appropriate for this rulemaking.

Executive Order 12630 (Taking of Private Property)

FTA has analyzed this rule under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. FTA does not believe this rule effects a taking of private property or otherwise has taking implications under Executive Order 12630.

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations)

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, and DOT Order 5610.2(a) (77 FR 27534) require DOT agencies to achieve environmental justice (EJ) as part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects, including interrelated social and economic effects, of their programs, policies, and activities on minority and/or low-income populations. The DOT Order requires DOT agencies to address compliance with the Executive Order and the DOT Order in all rulemaking activities. In addition, on July 17, 2014, FTA issued a circular to update its EJ Policy Guidance for Federal Transit Recipients (*www.fta.dot.gov/legislation_law/12349_14740.html*), which addresses administration of the Executive Order and DOT Order.

FTA has evaluated this rule under the Executive Order, the DOT Order, and the FTA Circular and has determined that this rulemaking will not cause disproportionately high and adverse human health and environmental effects on minority or low-income populations.

Executive Order 12988 (Civil Justice Reform)

This action meets the applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988 (February 5, 1996), Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

FTA has analyzed this proposed rulemaking under Executive Order 13045 (April 21, 1997), Protection of Children from Environmental Health Risks and Safety Risks. FTA certifies that this proposed rule will not cause an environmental risk to health or safety that might disproportionately affect children.

Executive Order 13175 (Tribal Consultation)

FTA has analyzed this action under Executive Order 13175 (November 6, 2000), and determined that it will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal laws. Therefore, a tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

FTA has analyzed this proposed rulemaking under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). FTA has determined that this action is not a significant energy action under the Executive Order, given that the action is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not requirement.

Privacy Act

Anyone may search the electronic form of all comments received into any of FTA's dockets by the name of the individual submitting the comment, or signing the comment if submitted on behalf of an association, business, labor union, or any other entity. You may review USDOT's complete Privacy Act Statement published in the **Federal Register** on April 11, 2000, at 65 FR 19477–8.

Statutory/Legal Authority for This Rulemaking

This rulemaking is issued under the authority of 49 U.S.C. 5327, which requires the Secretary to conduct oversight of major capital projects and to promulgate a rule for that purpose that includes a definition of major capital project to delineate the types of projects governed by the rule.

Regulation Identifier Number

A Regulation Identifier Number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN set forth in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 633

Grant programs—transportation, Mass transportation.

Issued in Washington, DC, under authority delegated in 49 CFR 1.90.

K. Jane Williams,

Acting Administrator.

In consideration of the foregoing, and under the authority of 49 U.S.C. 5327, the Federal Transit Administration proposes to amend 49 CFR chapter VI by revising part 633, as follows:

PART 633—PROJECT MANAGEMENT OVERSIGHT

Subpart A—General Provisions

Sec.

633.1 Purpose.
633.3 Scope.
633.5 Definitions.

Subpart B—Project Management Oversight Services

633.11 Covered projects.
633.13 Initiation of project management oversight services.
633.15 Access to information.
633.17 Project management oversight contractor eligibility.
633.19 Exclusion from the project management oversight program.

Subpart C—Project Management Plans

633.21 Basic requirement.
633.23 FTA review of a project management plan.
633.25 Contents of a project management plan.
633.27 Implementation of a project management plan.
633.29 [Reserved]

Authority: 49 U.S.C. 5327; 49 CFR 1.90.

Subpart A—General Provisions

§ 633.1 Purpose.

This part implements 49 U.S.C. 5327 regarding oversight of major capital projects. The part provides for a two-part program for major capital projects receiving Federal financial assistance. First, subpart B discusses project management oversight, designed primarily to aid FTA in its role of ensuring successful implementation of federally-funded projects. Second, subpart C discusses the requirement that, to receive Federal financial assistance for a major capital project for public transportation under Chapter 53 of Title 49, United States Code, or any other provision of Federal law, a recipient must prepare a project management plan approved by the Administrator and carry out the project in accordance with the project management plan.

§ 633.3 Scope.

This rule applies to a recipient of Federal financial assistance undertaking a major capital project for public transportation under Chapter 53 of Title 49, United States Code, or any other provision of Federal Law.

§ 633.5 Definitions.

As used in this part:

(a) *Administrator* means the Administrator of the Federal Transit Administration or the Administrator's designee.

(b) *Days* means calendar days.

(c) *Fixed guideway* means any public transportation facility: using and occupying a separate right-of-way for the exclusive use of public transportation; using rail; using a fixed catenary system; for a passenger ferry system; or for a bus rapid transit system.

(d) *FTA* means the Federal Transit Administration.

(e) Except as provided in § 633.19 of this part, *Major capital project* means a project that:

(1) Involves the construction, expansion, rehabilitation, or modernization of a fixed guideway that:

(i) Has a total project cost of $300 million or more and receives Federal funds of $100 million or more; and

(ii) Is not exclusively for the acquisition, maintenance, or rehabilitation of vehicles or other rolling stock; or

(2) The Administrator determines to be a major capital project because project management oversight under this part will benefit the Federal government or the recipient, and the project is not exclusively for the acquisition, maintenance, or rehabilitation of rolling stock or other vehicles. Typically, this means a project that:

(i) Involves new technology;

(ii) Is of a unique nature for the recipient; or

(iii) Involves a recipient whose past record indicates the appropriateness of extending project management oversight under this part.

(f) *Project development* means the phase of a project after a locally preferred alternative has been chosen where design and engineering work is undertaken to advance the project from concept to a sufficiently mature scope to allow for the development of a reasonably reliable project cost, schedule, and project management plan.

(g) *Project management oversight* means the risk-informed monitoring of the recipient's management of a major capital project's progress to determine whether the project is on time, within budget, in conformance with design and quality criteria, in compliance with all applicable Federal requirements, constructed to approved plans and specifications, delivering the identified benefits, and safely, efficiently, and effectively implemented.

(h) *Project management plan* means a written document prepared by a recipient that explicitly defines all tasks necessary to implement a major capital project. A project management plan may be a single document or a series of documents or sub plans integrated with one another into the project management plan either directly or by reference for the purpose of defining how the recipient will effectively manage, monitor, and control all phases of the project.

(i) *Recipient* means a direct recipient of Federal financial assistance or the sponsor of a major capital project.

Subpart B—Project Management Oversight Services

§ 633.11 Covered projects.

(a) The recipient is using funds made available under Chapter 53 of Title 49, United States Code, or any other provision of Federal law; and

(b) The project is a major capital project.

§ 633.13 Initiation of project management oversight services.

Project management oversight services will be initiated as soon as practicable, once the Administrator determines that this part applies. In most cases, this means that project management oversight will begin during the project development phase of the project, unless the Administrator determines it more appropriate to begin oversight during another phase of the project, to maximize the transportation benefits and cost savings associated with project management oversight.

§ 633.15 Access to information.

A recipient for a major capital project shall provide the Administrator and the project management oversight contractor chosen under this part access to its records and construction sites, as reasonably may be required.

§ 633.17 Project management oversight contractor eligibility.

(a) Any person or entity may provide project management oversight services in connection with a major capital project, with the following exceptions:

(1) An entity may not provide project management oversight services for its own project; and

(2) An entity may not provide project management oversight services for a project if there exists a conflict of interest.

(b) In choosing private sector persons or entities to provide project management oversight services, the Administrator uses the procurement requirements in the government-wide procurement regulations, found at 48 CFR Chapter I.

§ 633.19 Exclusion from the project management oversight program.

The Administrator may, in compelling circumstances, determine that a project meeting the criteria of § 633.5(e)(1) of this part is not a major capital project because project management oversight under this part will not benefit the Federal government or the recipient. Typically, this means a project that:

(a) Involves a recipient whose past record indicates the appropriateness of excluding the project from project management oversight under this part; and

(b) Involves such a greater level of financial risk to the recipient than to the Federal government that project management oversight under this part is made less necessary to secure the recipient's diligence.

Subpart C—Project Management Plans

§ 633.21 Basic requirement.

(a) If a project meets the definition of major capital project, the recipient shall submit a project management plan prepared in accordance with § 633.25 of this part, as a condition of Federal financial assistance.

(b)(1) The Administrator will notify the recipient when the recipient must submit the project management plan. Normally, the Administrator will notify the recipient sometime during the project development phase. If the Administrator determines the project is a major capital project after the project development phase, the Administrator will inform the recipient of the determination as soon as possible.

d. Revise subsection (b)(2) to read as follows:

(2) Once the Administrator has notified the recipient that it must submit a plan, the recipient will have a minimum of 90 days to submit the plan.

§ 633.23 FTA review of a project management plan.

Within 60 days of receipt of a project management plan, the Administrator will notify the recipient that:

(a) The plan is approved;

(b) The plan is disapproved, including the reasons for the disapproval;

(c) The plan will require modification, as specified, before approval; or

(d) The Administrator has not yet completed review of the plan, and state when it will be reviewed.

§ 633.25 Contents of a project management plan.

A project management plan must be tailored to the type, costs, and complexity of the major capital project, and to the recipient's management capacity and capability. A project management plan must be written to a level of detail sufficient to enable the recipient to determine whether the necessary staff and processes are in place to control the scope, budget, schedule, and quality of the project, while managing the safety and security of all persons. A project management plan must be developed with a sufficient level of detail to enable the Administrator to assess the adequacy of the recipient's plan.

At a minimum, a recipient's project management plan shall include:

(a) Adequate recipient staff organization with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications;

(b) A budget covering the project management organization, appropriate contractors and consultants, property acquisition, utility relocation, systems demonstration staff, audits, contingencies, and miscellaneous payments as the recipient may be prepared to justify;

(c) A construction schedule for the project;

(d) A document control procedure and recordkeeping system;

(e) A change order procedure that includes a documented, systematic approach to the handling of construction change orders;

(f) A description of organizational structures, management skills, and staffing levels required throughout the construction phase;

(g) Quality control and quality assurance functions, procedures, and responsibilities for project design, procurement, construction, system installation, and integration of system components;

(h) Material testing policies and procedures;

(i) Internal plan implementation and reporting requirements including cost and schedule control procedures;

(j) Criteria and procedures to be used for testing the operational system or its major components;

(k) Periodic updates of the plan, especially related to project budget and project schedule, financing, ridership estimates, and the status of local efforts to enhance ridership where ridership estimates partly depend on the success of those efforts;

(l) The recipient's commitment to submit a project budget and project schedule to the Administrator quarterly;

(m) Safety and security management; and

(n) Management of risks, contingencies, and insurance.

§ 633.27 Implementation of a project management plan.

(a) Upon approval of a project management plan by the Administrator the recipient shall begin implementing the plan.

(b) Generally, a project management plan must be modified if the project is at a new phase or if there have been significant changes identified. If a recipient must modify an approved project management plan, the recipient shall submit the proposed changes to the Administrator along with an explanation of the need for the changes.

(c) A recipient shall submit periodic updates of the project management plan to the Administrator. Such updates shall include, but not be limited to:

(1) Project budget;

(2) Project schedule;

(3) Financing, both capital and operating;

(4) Ridership estimates, including operating plan; and

(5) Where applicable, the status of local efforts to enhance ridership when estimates are contingent, in part, upon the success of such efforts.

(d) A recipient shall submit current data on a major capital project's budget and schedule to the Administrator on a quarterly basis for the purpose of reviewing compliance with the project management plan, except that the Administrator may require submission more frequently than on a quarterly basis if the recipient fails to meet the requirements of the project management plan and the project is at risk of materially exceeding its budget or falling behind schedule. Oversight of projects monitored more frequently than quarterly will revert to quarterly oversight once the recipient has demonstrated compliance with the project management plan and the project is no longer at risk of materially exceeding its budget or falling behind schedule.

§ 633.29 [Reserved]

[FR Doc. 2019–18286 Filed 8–23–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

RIN 0648–BH67

Fisheries of the Northeastern United States; Omnibus Deep-Sea Coral Amendment

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

ACTION: Announcement of availability of omnibus amendment; request for comments.

SUMMARY: NMFS announces that the New England Fishery Management Council has submitted the Omnibus Deep-Sea Coral Amendment, incorporating the Environmental Assessment and the Regulatory Flexibility Analysis, for review by the Secretary of Commerce, and is requesting comments from the public. This action would protect deep-sea corals from the impacts of commercial fishing gear on Georges Bank and in the Gulf of Maine. These proposed management measures are intended to reduce, to the extent practicable, impacts of fishing gear on deep-sea corals in New England while balancing their costs to commercial fisheries.

DATES: Comments must be received on or before October 25, 2019.

ADDRESSES: The Council has prepared a draft Environmental Assessment (EA) for this action that describes the proposed measures in the Omnibus Deep-Sea Coral Amendment and other considered alternatives and analyzes the impacts of the proposed measures and alternatives. The Council submitted a draft of the amendment to NMFS that includes the draft EA, a description of the Council's preferred alternatives, the Council's rationale for selecting each alternative, and a Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA). Copies of supporting documents used by the New England Fishery Management Council, including the EA and RIR/IRFA, are available from: Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950 and accessible via the internet in documents available at: *https://www.nefmc.org/library/omnibus-deep-sea-coral-amendment.*

You may submit comments, identified by NOAA–NMFS–2019–0092, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0092,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on Omnibus Deep-Sea Coral Amendment NOA.''

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Travis Ford, Fishery Policy Analyst, (978) 281–9233.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each Regional Fishery Management Council submit any amendment it prepares to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an amendment, immediately publish notification in the **Federal Register** that the amendment is available for public review and comment. The Council submitted its final version of Omnibus Deep-Sea Coral Amendment to NMFS for review on June 25, 2019. NMFS has declared a transmittal date of August 20, 2019. The Council has reviewed the Omnibus Deep-Sea Coral Amendment proposed rule regulations as drafted by NMFS and deemed them to be necessary and appropriate as specified in section 303(c) of the Magnuson-Stevens Act.

Background

The coral protection zones included in this amendment were initially developed during 2010 and 2011 as part of the Council's Omnibus Essential Fish Habitat Amendment 2 (OHA2), finalized April 9, 2018 (83 FR 15240; April 9, 2018). In September 2012, the Council split the coral protection zones and associated management measures out of OHA2 into a separate omnibus amendment. On March 13 and 15, 2017, the Council held workshops in New Bedford, MA, and Portsmouth, NH, to discuss the coral zone boundaries, considering the canyon and slope zones on Georges Bank (broad zone) at the first meeting and the offshore Gulf of Maine zones at the second. On April 18, 2017, the Council chose preferred alternatives for the coral zones to go out to public hearing. The Council held public hearings throughout New England in May of 2017, and revisited its preferred alternatives at its June 2017 meeting. On June 22, 2017, the Council took final action on the Gulf of Maine portions of the amendment, but did not select final preferred alternatives for the broad coral protection zone on Georges Bank. Instead, the Council added a new alternative for analysis that was suggested during the public hearings. Finally, on January 30, 2018, the Council selected a final preferred alternative for the broad zone and adopted the Omnibus Deep-Sea Coral Amendment.

The Council submitted the Amendment to NMFS for initial review on December 21, 2018. Due to the lapse in Federal appropriations, NMFS's review of the document was delayed. The Council submitted a revised draft of

the Amendment on June 25, 2019, for final review by NMFS, acting on behalf of the Secretary of Commerce.

The Council developed this action, and the measures described in this proposed rule, under the discretionary provisions for deep-sea coral protection in section 303(b) of the Magnuson-Stevens Act. This provision gives the Regional Fishery Management Councils the authority to:

(A) Designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear; and

(B) Designate such zones in areas where deep-sea corals are identified under section 408 (this section describes the deep-sea coral research and technology program), to protect deep-sea corals from physical damage from fishing gear or to prevent loss or damage to such fishing gear from interactions with deep-sea corals, after considering long-term sustainable uses of fishery resources in such areas.

Consistent with these provisions, the Council proposed the measures in the Omnibus Deep-Sea Coral Amendment. These measures are designed to identify and protect concentrations of corals in select areas and restrict the expansion of fishing effort into areas where corals are likely to be present. The measures also take into account long-term sustainable uses of fishery resources in the areas and the economic impacts to commercial fisheries. Measures recommended by the Council would:

- Establish a deep-sea coral protection area on the outer continental shelf in New England waters. It would complement the Frank R. Lautenberg Deep-Sea Coral Protection Area established by the Mid-Atlantic Fishery Management Council in Amendment 16 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan (81 FR 90246; December 14, 2016) as described in § 648.372. The area would run along the outer continental shelf in waters no shallower than 600 m and extend to the outer limit of U.S. Exclusive Economic Zone boundary to the east and north, and south to the intercouncil boundary as described in § 600.105(a);
- Restrict the use of bottom-tending commercial fishing gear within the designated deep-sea coral area, including: Bottom-tending otter trawls; bottom-tending beam trawls; hydraulic dredges; non-hydraulic dredges; bottom-tending seines; bottom longlines; pots and traps; and sink or anchored gillnets. The prohibition on these gears would protect deep-sea corals from interaction with and damage from bottom-tending fishing gear. Red crab pot gear would be exempt from the prohibition;
- Designate a coral protection area in an 8-mi^2 (21-km^2) area southwest of Mount Desert Rock, a small, rocky island off the eastern Maine coast, about 20 nm (37 km) south of Mount Desert Island, encompassing depths of 100–200 m. Vessels would be prohibited from fishing with bottom-tending mobile gear in this area. Bottom-tending mobile gear includes but is not limited to: Bottom-tending otter trawls; bottom-tending beam trawls; hydraulic dredges; non-hydraulic dredges; and seines (with the exception of a purse seine);
- Designate a coral protection area in a 31-mi^2 (79-km^2) area on the Outer Schoodic Ridge, roughly 25 nm (46 km) southeast of Mount Desert Island, encompassing depths of 104–248 m. Vessels would be prohibited from fishing in this area with the same bottom-tending mobile gears as identified in the Mount Desert Rock area;
- Establish provisions for vessels transiting through the coral protection areas;
- Designate the area around Jordan Basin in the Gulf of Maine as a dedicated habitat research area; and
- Expand framework adjustment provisions in the New England fishery management plans (FMP) for future modifications to the deep-sea coral protection measures.

The Magnuson-Stevens Act allows us to approve, partially approve, or disapprove measures recommended by the Council in an amendment based on whether the measures are consistent with the FMPs, plan amendment, the Magnuson-Stevens Act and its National Standards, and other applicable law. The Council develops policy for its fisheries and we defer to the Council on policy decisions unless those policies are inconsistent with the Magnuson-Steven Act or other applicable law. As such, we are seeking comment on whether measures in Omnibus Deep-Sea Coral Amendment are consistent with the FMPs, the Magnuson-Stevens Act and its National Standards, and other applicable law. Through this notice, NMFS seeks comments on Omnibus Deep-Sea Coral Amendment and its incorporated documents through the end of the comment period stated in the **DATES** section of this notice of availability (NOA). Following the publication of this NOA a rule proposing the implementation of measures in this amendment is anticipated to be published in the **Federal Register** for public comment. Public comments must be received by the end of the comment period provided in this NOA of the Omnibus Deep-Sea Coral Amendment to be considered in the approval/disapproval decision. All comments received by the end of the comment period on the NOA, whether specifically directed to the NOA or the proposed rule, will be considered in the approval/disapproval decision. Comments received after the end of the comment period for the NOA will not be considered in the approval/disapproval decision of the Omnibus Deep-Sea Coral Amendment.

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

Dated: August 21, 2019.

Jennifer M. Wallace,

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

[FR Doc. 2019–18307 Filed 8–23–19; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 84, No. 165
Monday, August 26, 2019

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2019–0011]

Notice of Request To Revise an Approved Information Collection: Import Inspection Application and Application for the Return of Exported Products to the United States

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, the Food Safety and Inspection Service (FSIS) is announcing its intention to revise the approved information collection regarding import inspection applications. The approval for this information collection will expire on October 31, 2020. FSIS is updating this collection, based on new information about burden, and adding a new application for the return of exported products to the United States. The Agency has increased the burden estimate by 21,932 hours due to updated information and the addition of this form.

DATES: Submit comments on or before October 25, 2019.

ADDRESSES: FSIS invites interested persons to submit comments on this **Federal Register** notice. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides commenters the ability to type short comments directly into the comment field on the web page or to attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Room 6065, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2019–0011. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, call (202) 720–5627 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250–3700; (202) 720–5627.

SUPPLEMENTARY INFORMATION:

Title: Import Inspection Application and Application for the Return of Exported Products to the United States.

OMB Control Number: 0583–0159.

Expiration Date: 10/31/2020.

Type of Request: Revision to an approved information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary (7 CFR 2.18, 2.53) as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*) and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*). These statutes mandate that FSIS protect the public by verifying that meat, poultry, and egg products are safe, wholesome, unadulterated, and properly labeled and packaged.

FSIS is requesting a revision to the approved information collection regarding import inspection applications. The approval for this information collection will expire on October 31, 2020. FSIS is updating this collection, based on new information about burden, and adding an application for the return of exported products to the United States. The Agency has increased the burden estimate by 21,932 hours due to updated information and the addition of this form.

For each consignment of product exported to the United States, FSIS requires the government of the exporting country to provide a Foreign Inspection Certificate. On the Foreign Inspection Certificate, FSIS requires the date; the foreign country of export and the producing foreign establishment number; the species used to produce the product; the source country and foreign establishment number for amenable source materials, if they originate from a country other than the exporting country; the product's description, including the process category, the product category, and the product group; the name and address of the consignor or exporter; the name and address of the consignee or importer; the number of units and the shipping or identification marks on the units; the net weight of each lot and; any additional information the Administrator requests to determine whether the product is eligible to be imported into the U.S.

FSIS also requires an Import Inspection Application (FSIS Form 9540–1), which is completed by an applicant, usually an importer or customs broker. The information required on FSIS Form 9540–1, which is similar to that required on the foreign inspection certificate, may be submitted electronically or via paper application. If there is any discrepancy in importer or consignee information between the Import Inspection Application and the Foreign Inspection Certificate, FSIS would rely on the information provided on the Import Inspection Application. For any product-based information, the foreign inspection certificate information, which is certified by an official of the foreign government, would take precedence over information provided on the Import Inspection Application.

For importers and brokers participating in the Partner Government Agency (PGA) Message Set, the information on FSIS Form 9540–1 is submitted electronically. FSIS would rely on any importer or consignee information electronically transferred from the U.S. Customs and Border Protection's (CBP) Automated Commercial Environment (ACE) to the

FSIS Public Health Information System (PHIS) Import Component. Applicants that do not file this information electronically can submit paper applications (FSIS Form 9540–1) to FSIS inspection personnel at an official import inspection establishment. The applicant is required to submit the FSIS Form 9540–1 in advance of the shipment's arrival, but no later than when the entry is filed with CBP (9 CFR 327.5, 381.198, 557.5, 590.920).

Return of Exported Products to the United States

When product inspected and passed by FSIS is exported, but then returned to this country, the owner, broker, or agent of the product (the applicant) arranges for the product's entry and notifies FSIS. In accordance with 9 CFR 327.17, 381.209, 557.17, and 590.965, exported product returned to this country is exempt from FSIS import inspection requirements upon notification to and approval from the Agency's Recall Management and Technical Analysis Division (RMTAD). RMTAD may require, however, that returned product be re-inspected at a federally-inspected facility for food safety and food defense determinations.

As part of this process, an applicant completes the FSIS Form 9010–1, *Application for the Return of Exported Products to the United States.* The purpose of the form is to allow RMTAD to decide whether re-inspection of the returned product is needed and to notify the appropriate FSIS office where to perform the re-inspection of the product, if necessary. If FSIS inspection program personnel determine that the product is safe and not adulterated or misbranded, the product may be released into domestic commerce.

FSIS has made the following estimates based upon an information collection assessment:

Estimate of burden: The public reporting burden for this collection of information is estimated to average .202 hours per response.

Estimated total number of respondents: 939.

Estimated annual number of responses: 244,354.

Estimated Total Annual Burden on Respondents: 49,385 hours.

Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250–3700; (202) 720–5627.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's estimate of the burden of the proposed collection of information, including the validity of the method and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20253.

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.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS web page located at: *http://www.fsis.usda.gov/federal-register.*

FSIS will also announce and provide a link to this **Federal Register** publication through the FSIS *Constituent Update,* which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS can provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

How To File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410, *Fax:* (202) 690–7442, *Email: program.intake@usda.gov.*

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Done in Washington, DC.

Carmen M. Rottenberg,

Administrator.

[FR Doc. 2019–18327 Filed 8–23–19; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Generic Clearance for Census Bureau Field Tests and Evaluations

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: To ensure consideration, written comments must be submitted on or before October 25, 2019.

ADDRESSES: Direct all written comments to Jennifer Childs, Assistant Center Chief, U.S. Census Bureau, 4600 Silver Hill Road, 5K022D, Washington, DC 20233 (or via the internet at *PRAcomments@doc.gov*). You may also submit comments, identified by Docket

Number USBC–2018–0013, to the Federal e-Rulemaking Portal: *http://www.regulations.gov.* All comments received are part of the public record. No comments will be posted to *http://www.regulations.gov* for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Jennifer Childs, Census Bureau, Washington, DC 20233; (301) 763–4932 (or via the internet at *jennifer.hunter.childs@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The U.S. Census Bureau plans to request an extension of the current OMB approval to conduct a series of studies to research and evaluate how to improve data collection activities for data collection programs at the Census Bureau. These studies will explore how the Census Bureau can improve efficiency, data quality, and response rates and reduce respondent burden in future census and survey operations, evaluations, and experiments.

This information collection will operate as a generic clearance. The estimated number of respondents and annual reporting hours requested cover both the known and yet to be determined tests. A generic clearance is needed for these tests because, even though each test will follow a similar methodology, the exact number of tests and the explicit details of each test to be performed has yet to be determined. Once information collection plans are defined, they will be submitted on an individual basis in order to keep OMB informed as these tests progress.

The Census Bureau plans to test the use of new and improved data collection techniques for self-enumeration and interviewer data-collection tasks surrounding and following the ongoing census and survey operations. The research and evaluation may include: Developing alternative enumeration or follow-up questionnaires; usability issues; conducting interviews or debriefings; and non-English language training and interviews. To study enumeration, the Census Bureau may conduct the enumeration directly with a household member or knowledgeable respondent. The questions asked in these studies will be typical census or survey questions and questions related to that content, along with potential attitudinal and satisfaction debriefing questions.

II. Method of Collection

The information will be collected through observations, self-response, face-face interviews, and/or telephone interviews.

III. Data

OMB Control Number: 0607–0971.

Form Number: Not yet determined.

Type of Review: Regular submission.

Affected Public: Individuals or households.

Estimated Number of Respondents: 100,000 per year.

Estimated Time per Response: 25 minutes.

Estimated Total Annual Burden Hours: 41,667 hours annually.

Estimated Total Annual Cost: There is no cost to the respondent other than time to answer the information request.

Respondents Obligation: Mandatory or Voluntary, depending on cited authority.

Legal Authority: Data collection for this project is authorized under the authorizing legislation for the questionnaire being tested. This may be Title 13, United States Code, Sections 131, 141, 161, 181, 182, 193, and 301 for Census Bureau sponsored surveys, and Title 13 or 15 for surveys sponsored by other Federal agencies. We do not now know what other titles will be referenced, since we do not know what survey questionnaires will be pretested during the course of the clearance.

IV. Request for 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 (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.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2019–18274 Filed 8–23–19; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of the Census

2020 Census Tribal Consultation Meetings

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of 2020 Census Tribal Consultation meetings.

SUMMARY: The Bureau of the Census (Census Bureau) is continuing tribal consultation meetings through calendar year 2019 with federally recognized tribes as part of our ongoing government-to-government relationships. The Census Bureau received valuable feedback during our 2020 Census tribal consultation meetings held in 2015 and 2016, and the Census Bureau is continuing its communication and information on updates on the 2020 Census. The Census Bureau is planning one consultation meeting and one national webinar with federally recognized tribes. These meetings will provide a forum for tribes to share insights, make recommendations, and discuss concerns related to the 2020 Census data products.

DATES: The Census Bureau will conduct information and consultation sessions on Wednesday, September 25, 2019, at 4:00 p.m. Eastern Daylight Time; and Monday, October 21, 2019, at 9:00–11:00 a.m. Mountain Standard Time.

Any questions or topics to be considered in the tribal consultation meetings must be received in writing by September 25, 2019.

ADDRESSES: The Census Bureau will conduct the consultation sessions at the following locations:

- The September 25 national webinar will be conducted at 4:00 p.m. EDT, via webcast at: WebEx Login Link: *https://censusevent.webex.com/censusevent/onstage/g.php?MTID=e0e21564092e8928ab763dd02ba6e40f7.*

Dial-in: 800–857–8887. Participant passcode: 5484613.

- The October 21 consultation session will be held at the National Congress of American Indians annual conference,

Albuquerque Convention Center, 401 2nd St NW, Albuquerque, NM 87102.

Please direct all written comments to Dee Alexander, Tribal Affairs Coordinator, Office of Congressional and Intergovernmental Affairs, Intergovernmental Affairs Office, U.S. Census Bureau, Washington, DC 20233; telephone (301) 763–9335; fax (301) 763–3780; or by email at *Dee.A.Alexander@census.gov* or, at *ocia.tao@census.gov.*

FOR FURTHER INFORMATION CONTACT: Dee Alexander, Tribal Affairs Coordinator, Office of Congressional and Intergovernmental Affairs, Intergovernmental Affairs Office, U.S. Census Bureau, Washington, DC 20233; telephone (301) 763–9335; fax (301) 763–3780; or by email at *Dee.A.Alexander@census.gov* or at *ocia.tao@census.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Census Bureau's procedures for outreach, notice and consultation ensure involvement of tribes, to the extent practicable and permitted by law, before making decisions or implementing policies, rules, or programs that affect federally recognized tribal governments. These meetings are open to citizens of federally recognized tribes by invitation.

The Census Bureau's Decennial Directorate and the Intergovernmental Affairs Office is responsible for the development and implementation of outreach and promotion activities to assist in obtaining a complete and accurate census count in 2020 among all residents including the American Indian and Alaska Native populations. This program is one part of the overall outreach and promotion efforts directed at building awareness about the importance of the census and motivating response to the 2020 Census in communities all across the country.

In accordance with Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, issued November 6, 2000, the Census Bureau is adhering to its tribal consultation policy by seeking the input of tribal governments in the planning and implementation of the 2020 Census with the goal of ensuring the most accurate counts and data for the American Indian and Alaska Native population. In that regard, we are seeking comments to the following operational topics:

1. 2020 Census Disclosure Avoidance System (DAS)
2. 2020 Census data products for the American Indian and Alaska Native population

The Census Bureau is transitioning to a new Disclosure Avoidance System (DAS) to protect information provided by respondents on the 2020 Census. The DAS is a new, advanced, and more powerful confidentiality protection system than the Census Bureau has previously used. The DAS employs a rigorous mathematical process to protect respondents' information and identity. The Census Bureau is fully committed to publishing detailed race and ethnicity data from the 2020 Census, including detailed data on the American Indian and Alaska Native populations. These products will be available in a format that uses the detailed self-reported data, including the option for respondents to report as many race categories as apply. The geographic specificity will be limited to areas that meet certain, still to be determined, minimum population standards, as they have in the past. The Census Bureau also will apply the new 2020 Census Disclosure Avoidance System to all data products. Through the webinar and tribal consultation sessions, Census Bureau staff will provide tribal communities with further details on the Census Bureau's plans to modernize its disclosure avoidance methodology for the 2020 Census and potential changes to the 2020 Census data products. For more information on DAS, please see the following URL link: *https://www.census.gov/programs-surveys/decennial-census/2020-census/planning-management/memo-series/2020-memo-2019_12.html.*

TRIBAL CONSULTATION MEETING DATES AND TIMES

Date	Time (local time zone)	Location
Wednesday, September 25, 2019 ..	4:00 p.m. EST—Eastern Standard Time.	WebEx Login Link: *https://censusevent.webex.com/censusevent/onstage/g.php?MTID=e0e21564092e8928ab763dd02ba6e40f7.* Dial-in: 800–857–8887. Participant passcode: 5484613.
Monday, October 21, 2019	9:00–11:00 a.m. Mountain Standard Time.	National Congress of American Indians, 67th Annual Convention and Marketplace, Albuquerque Convention Center, Albuquerque, New Mexico, 87102.

Dated: August 20, 2019.

Steven D. Dillingham,

Director, Bureau of the Census.

[FR Doc. 2019–18301 Filed 8–23–19; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[0648–XR034]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice; Determination on a Tribal Resource Management Plan.

SUMMARY: Notice is hereby given that NMFS has made a determination on the Nez Perce Tribe's Tribal Resource Management Plan (TRMP), pursuant to the protective regulations promulgated for Pacific salmon and steelhead under the Endangered Species Act (ESA). The TRMP specifies the implementation of fisheries targeting steelhead in the Snake River Basin.

FOR FURTHER INFORMATION CONTACT: Charlene Hurst, at phone number: (503) 230–5409, or via email: *Charlene.n.hurst@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

Chinook salmon (*Oncorhynchus tshawytscha*): threatened, naturally produced and artificially propagated Snake River Spring/Summer and Snake River Fall.

Steelhead (*O. mykiss*): threatened, naturally produced and artificially propagated Snake River Basin.

Sockeye salmon (*O. nerka*): endangered, naturally produced and artificially propagated Snake River.

Background

The Nez Perce Tribe TRMP describes fisheries targeting adult steelhead within the Snake River Basin. This plan

was submitted to NMFS in November of 2018 under the ESA Tribal 4(d) Rule, and describes timing, location, harvest impact limits, and gear. A variety of monitoring and evaluation is included in the TRMP. As required, NMFS took public comments on its recommended determination for how the plan addresses the criteria in § 223.203(b)(4) prior to making its final determination.

Discussion of the Biological Analysis Underlying the Determination

The TRMP defines maximum impact rates for natural-origin steelhead specific to each major population group within the Snake River Steelhead Distinct Population Segment. These maximum impact rates are part of a basin-wide framework with which all fishery managers have agreed to coordinate so that impacts do not exceed these maximums. Furthermore, if abundances fall below a major population group-specific Critical Abundance Threshold, management actions (*e.g.,* time-area closures) will be taken to reduce impacts.

NMFS has analyzed the effects of the TRMP on ESA-listed salmon and steelhead species and has concluded that the TRMP would not appreciable reduce the likelihood of survival and recovery of ESA-listed species, while providing for the proposed tribal treaty harvest opportunities. Our determination depends upon implementation of all of the monitoring, evaluation, reporting tasks or assignments, and enforcement activities included in the TRMP. Reporting and inclusion of new information derived from research, monitoring, and evaluation activities described in the plan provide assurance that performance standards will be achieved in future seasons.

Summary of Comments Received in the Response to the Proposed Evaluation and Pending Determination

NMFS published notice of its Proposed Evaluation and Pending Determination (PEPD) on the plan for public review and comment on May 7, 2019 (84 FR 19904), as required by the Tribal 4(d) Rule. The PEPD was available for public review and comment for 30 days. No comments were received.

Authority: 16 U.S.C. 1531 1543; subpart B, §§ 223.201–202 also issued under 16 U.S.C. 1361 *et seq.;* 16 U.S.C. 5503(d) for § 223.206(d)(9).

Dated: August 20, 2019.

Cathryn E. Tortorici,

Chief, Endangered Species Act Interagency Cooperation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2019–18264 Filed 8–23–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Submission for OMB Review; Comment Request; ''Patent Cooperation Treaty''

The United States Patent and Trademark Office (USPTO) will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995.

Agency: United States Patent and Trademark Office, Commerce.

Title: Patent Cooperation Treaty.

OMB Control Number: 0651–0021.

Form Number(s):

- PTO–1382
- PTO–1390
- PTO/IB/372
- PTO/IPEA/401
- PTO/RO/101
- PTO/RO/134
- PTO/SB/64/PCT

Type of Request: Regular.

Number of Respondents: 431,135.

Average Hours per Response: The USPTO estimates that it will take the public between 15 minutes (0.25 hours) and 4 hours to gather the necessary information, prepare the appropriate form or document, and submit the information to the USPTO.

Burden Hours: 352,769.78.

Cost Burden: $302,074,235.50.

Needs and Uses: The information requested in this collection is necessary for respondents to file an international patent application and for the USPTO to process, search, and examine international applications and related correspondence under the PCT. If this information were not collected, the USPTO would not be able to fulfill its obligations under the PCT as an RO, ISA, or IPEA. The IB also uses this information to administer international applications as required by the PCT.

Some of the information in this collection has associated forms as indicated in Table 2 below. Use of the forms is not mandatory, but the USPTO advises applications to use these forms to ensure that all of the necessary information is provided and to assist the USPTO in processing the international applications quickly and efficiently. The Request and Demand forms include Annexes (Fee Calculation Sheets) and Notes with instructions on completing these forms. The WIPO also furnishes the PCT Applicant's Guide and other documents to give the public additional guidance on preparing the international applications.

Frequency: On occasion.

Respondent's Obligation: Required to Obtain or Maintain Benefits.

OMB Desk Officer: Nicholas A. Fraser, email: *Nicholas_A._Fraser@omb.eop.gov.*

Once submitted, the request will be publicly available in public format through *www.reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Further information can be obtained by:

- *Email: InformationCollection@uspto.gov.* Include ''0651–0021 information request'' in the subject line of the message.
- *Mail:* Marcie Lovett, Records and Information Governance Branch Chief, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Written comments and recommendations for the proposed information collection should be sent on or before September 25, 2019 to Nicholas A. Fraser, OMB Desk Officer, via email to *Nicholas_A._Fraser@omb.eop.gov,* or by fax to 202–395–5167, marked to the attention of Nicholas A. Fraser.

Marcie Lovett,

Records and Information Governance Division Director, OCTO, United States Patent and Trademark Office.

[FR Doc. 2019–18276 Filed 8–23–19; 8:45 am]

BILLING CODE 3510–16–P

COMMODITY FUTURES TRADING COMMISSION

Energy and Environmental Markets Advisory Committee

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (CFTC or Commission) is requesting nominations for Associate Members of the Energy and Environmental Markets Advisory Committee (EEMAC or Committee) and also inviting the submission of potential topics for discussion at future Committee meetings. The EEMAC is an advisory committee established by the

Dodd-Frank Wall Street Reform and Consumer Protection Act.

DATES: The deadline for the submission of Associate Member nominations and topics is September 20, 2019.

ADDRESSES: Nominations and topics for discussion at future EEMAC meetings should be emailed to *EEMAC_Submissions@cftc.gov* or sent by hand delivery or courier to Abigail S. Knauff, EEMAC Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. Please use the title ''Energy and Environmental Markets Advisory Committee'' for any nominations or topics you submit.

FOR FURTHER INFORMATION CONTACT: Abigail S. Knauff, EEMAC Secretary, 202–418–5123 or email: *aknauff@cftc.gov.*

SUPPLEMENTARY INFORMATION: The EEMAC was established to conduct public meetings; submit reports and recommendations to the Commission; and otherwise serve as a vehicle for discussion and communication on matters of concern to exchanges, trading firms, end users, energy producers, and regulators regarding energy and environmental markets and their regulation by the Commission.

I. Request for Associate Member Nominations

Pursuant to the EEMAC's authorizing statute, the EEMAC must have nine members. In addition, the EEMAC Charter requires that the Committee have approximately 9–20 Associate Members. The EEMAC currently has fourteen Associate Members and Commissioner Dan M. Berkovitz, the EEMAC's Sponsor, seeks additional Associate Members of the EEMAC. Accordingly, the Commission invites the submission of nominations for EEMAC Associate Members who represent a wide diversity of opinions and a broad spectrum of interests related to the energy and environmental markets and their regulation by the Commission. To advise the Commission effectively, EEMAC Associate Members must have a high level of expertise and experience in the energy and/or environmental markets and the Commission's regulation of such markets, including from a historical perspective. To the extent practicable, the Commission will strive to select members reflecting wide ethnic, racial, gender, and age representation. All EEMAC Associate Members must be willing to participate in a public forum.

Each nomination submission should include relevant information about the proposed Associate Member, such as the individual's name, title, organizational affiliation and address, email address and telephone number, as well as information that supports the individual's qualifications to serve as an Associate Member of the EEMAC. The submission should also include the name, email address, and telephone number of the person nominating the proposed Associate Member. Self-nominations are acceptable.

Submission of a nomination is not a guarantee of selection as an Associate Member of the EEMAC. As noted in the EEMAC's Charter, the CFTC identifies Associate Members of the EEMAC based on Commissioners' and Commission staff's knowledge of the energy and environmental markets, consultation with knowledgeable persons outside the CFTC, and requests to be Associate Members received from individuals and organizations. The Office of Commissioner Berkovitz plays a primary, but not exclusive, role in this process and makes recommendations regarding Associate Members to the Commission. Associate Members may be appointed as representatives, special government employees, or regular government employees. Associate Members serve at the pleasure of the Commission, and may be appointed to serve for one, two, or three-year terms.

As required by the EEMAC Charter, Associate Members provide their reports and recommendations directly to the EEMAC and not the Commission. Associate Members do not have the right to vote on matters before the EEMAC and may not sign or otherwise formally approve reports or recommendations made by the EEMAC to the Commission. Associate Members do not receive compensation for their services, and are not reimbursed for travel and per diem expenses. The EEMAC meets at such intervals as are necessary to carry out its functions and must meet at least two times per year. Associate Members are expected to provide their advice and recommendations to EEMAC members during these meetings.

II. Request for Future EEMAC Meeting Topics

In addition, the Commission invites submissions from the public regarding the topics on which EEMAC should focus. Such topics should:

A. Reflect matters of concern to exchanges, trading firms, end users, energy producers, and regulators regarding energy and environmental markets and their regulation by the Commission; and/or

B. Are important to otherwise assist the Commission in identifying and understanding the impact and implications of the evolving market structure of the energy, environmental, and other related markets.

Each topic submission should include the commenter's name and email or mailing address.

Authority: 5 U.S.C. App. II.

Dated: August 21, 2019.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2019–18313 Filed 8–23–19; 8:45 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 10:00 a.m., Wednesday, September 4, 2019.

PLACE: Three Lafayette Centre, 1155 21st Street NW, Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters. In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.cftc.gov/.*

CONTACT PERSON FOR MORE INFORMATION: Christopher Kirkpatrick, 202–418–5964.

Authority: 5 U.S.C. 552b.

Dated: August 22, 2019.

Christopher Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2019–18412 Filed 8–22–19; 11:15 am]

BILLING CODE 6351–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2019–0045]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Consumer Financial Protection (Bureau) is requesting to renew the Office of Management and Budget (OMB) approval for an existing information collection titled, ''Generic Information Collection Plan for the Collection for Qualitative Consumer Education,

Engagement and Experience Information Collections.''

DATES: Written comments are encouraged and must be received on or before September 25, 2019 to be assured of consideration.

ADDRESSES: Comments in response to this notice are to be directed towards OMB and to the attention of the OMB Desk Officer for the Bureau of Consumer Financial Protection. You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: OIRA_submission@omb.eop.gov.*
- *Fax:* (202) 395–5806.
- *Mail:* Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is available at *www.reginfo.gov* (this link becomes active on the day following publication of this notice). Select ''Information Collection Review,'' under ''Currently under review, use the dropdown menu ''Select Agency'' and select ''Consumer Financial Protection Bureau'' (recent submissions to OMB will be at the top of the list). The same documentation is also available at *http://www.regulations.gov.* Requests for additional information should be directed to Darrin King at (202) 435–9575, or email: *CFPB_PRA@cfpb.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.* Please do not submit comments to these email boxes.

SUPPLEMENTARY INFORMATION:

Title of Collection: Generic Information Collection Plan for the Collection for Qualitative Consumer Education, Engagement and Experience Information Collections.

OMB Control Number: 3170–0036.

Type of Review: Extension without change of a currently approved collection.

Affected Public: Individuals or households, State, Local, or Tribal governments, Private Sector.

Estimated Number of Annual Respondents: 4,000.

Estimated Annual Burden Hours: 2,000.

Abstract: Under the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, Section 1021(c), one of the Bureau's primary functions is to conduct financial education programs. The Bureau seeks to obtain approval of a generic information collection plan to collect qualitative data on effective financial education strategies and consumer experiences in the financial marketplace from a variety of respondents, including financial educators and consumers. The Bureau will collect this information through a variety of methods, including in-person meetings, interviews, focus groups, qualitative surveys, online discussion forums, social media polls, and other qualitative methods as necessary. The information collected through these processes will increase the Bureau's understanding of consumers' financial experiences, financial education and empowerment programs, and practices that can improve financial decision-making skills and outcomes for consumers. This information will also enable the Bureau to better communicate to consumers about the availability of Bureau tools and resources that consumers can use to make better informed financial decisions.

Request for Comments: The Bureau issued a 60-day **Federal Register** notice on June 5, 2019, 84 FR 26078, CFPB–2019–0030 Comments were solicited and continue to be invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be reviewed by OMB as part of its review of this request. All comments will become a matter of public record.

Dated: August 20, 2019.

Darrin A. King,

Paperwork Reduction Act Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2019–18251 Filed 8–23–19; 8:45 am]

BILLING CODE 4810–AM–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2019–0046]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Consumer Financial Protection (Bureau) is requesting to renew the Office of Management and Budget (OMB) approval for an existing information collection titled, ''Truth In Lending Act (Regulation Z) 12 CFR 1026.''

DATES: Written comments are encouraged and must be received on or before September 25, 2019 to be assured of consideration.

ADDRESSES: Comments in response to this notice are to be directed towards OMB and to the attention of the OMB Desk Officer for the Bureau of Consumer Financial Protection. You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: OIRA_submission@omb.eop.gov.*
- *Fax:* (202) 395–5806.
- *Mail:* Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is available at *www.reginfo.gov* (this link becomes active on the day following publication of this notice). Select ''Information Collection Review,'' under ''Currently under review, use the dropdown menu ''Select Agency'' and select ''Consumer Financial Protection Bureau'' (recent submissions to OMB will be at the top of the list). The same documentation is also available at *http://www.regulations.gov.* Requests for additional information should be directed to Darrin King, PRA Officer, at (202) 435–9575, or email: *CFPB_PRA@cfpb.gov.* If you require this document

in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.* Please do not submit comments to these email boxes.

SUPPLEMENTARY INFORMATION:

Title of Collection: Truth In Lending Act (Regulation Z) 12 CFR 1026.

OMB Control Number: 3170–0015.

Type of Review: Extension without change of currently approved collection.

Affected Public: Private Sector: Businesses and other for-profit entities.

Estimated Number of Respondents: 20,000.

Estimated Annual Burden Hours: 1,265,000.

Abstract: The Truth in Lending Act (TILA), 15 U.S.C. 1601 *et seq.,* was enacted to foster comparison credit shopping and informed credit decision making by requiring accurate disclosure of the costs and terms of credit to consumers and to protect consumers against inaccurate and unfair credit billing practices. Creditors are subject to disclosure and other requirements that apply to open-end credit (*e.g.,* revolving credit or credit lines) and closed-end credit (*e.g.,* installment financing). TILA imposes disclosure requirements on all types of creditors in connection with consumer credit, including mortgage companies, finance companies, retailers, and credit card issuers, to ensure that consumers are fully apprised of the terms of financing prior to consummation of the transaction and, as applicable, during the loan term.

Request for Comments: The Bureau issued a 60-day **Federal Register** notice on May 28, 2019, 84 FR 24498, Docket Number: Docket No. CFPB–2019–0027. Comments were solicited and continue to be invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be reviewed by OMB as part of its review of this request. All comments will become a matter of public record.

Dated: August 20, 2019.

Darrin A. King,

Paperwork Reduction Act Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2019–18252 Filed 8–23–19; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2019–ICCD–0103]

Agency Information Collection Activities; Comment Request; Annual State Application Under Part B of the Individudals With Disabilities Education Act as Amended in 2004

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before October 25, 2019.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2019–ICCD–0103. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9086, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Rebecca Walawender, 202–245–7399.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Annual State Application Under Part B of the Individudals with Disabilities Education Act as Amended in 2004.

OMB Control Number: 1820–0030.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 60.

Total Estimated Number of Annual Burden Hours: 2,340.

Abstract: The Individuals with Disabilities Education Act, signed on December 3, 2004, became Public Law 108–446. In accordance with 20 U.S.C. 1412(a) a State is eligible for assistance under Part B for a fiscal year if the State submits a plan that provides assurances to the Secretary that the State has in effect policies and procedures to ensure that the State meets each of the conditions found in 20 U.S.C. 1412. Information collection 1820–0030 allows States to proved assurances that it either has or does not have in effect policies and procedures to meet the eligibility requirements of Part B of the Act as found in Public Law 108–446.

Information Collection 1820–0300 is being revised to include the reporting requirement in 34 CFR 300.647(b)(7). This requirement is pursuant to the significant disproportionality rules promulgated on December 19, 2016.

Dated: August 21, 2019.

Kate Mullan,

PRA Coordinator, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.

[FR Doc. 2019–18319 Filed 8–23–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2019–ICCD–0102]

Agency Information Collection Activities; Comment Request; State and Local Educational Agency Record and Reporting Requirements Under Part B of the Individuals With Disabilities Education Act

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before October 25, 2019.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2019–ICCD–0102. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9086, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Rebecca Walawender, 202–245–7399.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: State and Local Educational Agency Record and Reporting Requirements under Part B of the Individuals with Disabilities Education Act.

OMB Control Number: 1820–0600.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 73,623.

Total Estimated Number of Annual Burden Hours: 362,649.

Abstract: OMB Information Collection 1820–0600 reflects the provisions in the Act and the Part B regulations requiring States and/or local educational agencies (LEAs) to collect and maintain information or data and, in some cases, report information or data to to other public agencies or to the public. However, some of the information or data are not reported to the Secretary. Data are collected in the areas of private schools, parentally placed private school students, State high cost fund, notification of free and low cost legal services, early intervening services, notification of hearing offices and mediators, State complaint procedures, significant disproportionality, and the LEA application under Part B.

Dated: August 21, 2019.

Kate Mullan,

PRA Coordinator, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.

[FR Doc. 2019–18318 Filed 8–23–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada; Meeting

AGENCY: Office of Environmental Management; Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, September 18, 2019; 4:00 p.m.

ADDRESSES: Frank H. Rogers Science and Technology Building, 755 East Flamingo, Las Vegas, Nevada 89119.

FOR FURTHER INFORMATION CONTACT: Barbara Ulmer, Board Administrator, 232 Energy Way, M/S 167, North Las Vegas, Nevada 89030. Phone: (702) 523–0894; Fax (702) 295–2025 or Email: *nssab@emcbc.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

1. Fiscal Year 2020 Work Plan Development.
2. Election of Officers.
3. Recommendation Development for Low-Level Waste Visual Verification—Work Plan Item #5.

Public Participation: The meeting is open to the public. The EM SSAB, Nevada, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Barbara Ulmer at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact Barbara

Ulmer at the telephone number listed above. The request must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments can do so during the 15 minutes allotted for public comments.

Minutes: Minutes will be available by writing to Barbara Ulmer at the address listed above or at the following website: *http://www.nnss.gov/NSSAB/pages/MM_FY19.html.*

Signed in Washington, DC, on August 20, 2019.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2019–18294 Filed 8–23–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Case Number 2019–003; EERE–2019–BT–WAV–0007]

Energy Conservation Program: Petition for Waiver of Signify North America Corporation From the Department of Energy Illuminated Exit Signs Test Procedure

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of petition for waiver, and request for comments.

SUMMARY: This document announces receipt of and publishes a petition for waiver from Signify North America Corporation (Signify), which seeks a waiver from the U.S. Department of Energy (DOE) test procedure used for determining the energy consumption of specified illuminated exit sign basic models. Signify seeks to use an alternate test procedure to address issues involved in testing the basic models identified in its petition. Signify contends that the design characteristics of its combination illuminated exit sign basic models prevent testing in accordance with the DOE test procedure and suggests an alternate test procedure approved by DOE in a previous waiver for similar equipment. DOE solicits comments, data, and information concerning Signify's petition and its suggested alternate test procedure to inform its decision on Signify's waiver request.

DATES: Written comments and information are requested and will be accepted on or before September 25, 2019.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *https://www.regulations.gov.* Alternatively, interested persons may submit comments, identified by case number ''2019–003,'' and Docket number ''EERE–2019–BT–WAV–0007,'' by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: Signify2019WAV0007@ee.doe.gov.* Include Case No. 2019–003 in the subject line of the message.
- *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, Mailstop EE–5B, Petition for Waiver Case No. 2019–003, 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, 6th floor, Washington, DC 20024. 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. For detailed instructions on submitting comments and additional information on this process, see section V of this document.

Docket: The docket, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *https://www.regulations.gov.* All documents in the docket are listed in the *https://www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket web page can be found at *https://www.regulations.gov/docket?D=EERE-2019-BT-WAV-0007.* The docket web page contains simple instruction on how to access all documents, including public comments, in the docket. See section V for information on how to submit comments through *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Email: *AS_Waiver_Requests@ee.doe.gov.* Mr. Jennifer Tiedeman, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–33, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585–0103. Telephone: (202)–287–6111. Email: *Jennifer.Tiedeman@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Authority

The Energy Policy and Conservation Act of 1975, as amended (''EPCA''),[1] authorizes the U.S. Department of Energy (''DOE'') to regulate the energy efficiency of a number of consumer products and industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles, which sets forth a variety of provisions designed to improve energy efficiency for certain types of consumer products. These products include illuminated exit signs, the focus of this document. (42 U.S.C. 6291(37); 42 U.S.C. 6295(w))

Under EPCA, DOE's energy conservation program consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA include definitions (42 U.S.C. 6291), energy conservation standards (42 U.S.C. 6295), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), and the authority to require information and reports from manufacturers (42 U.S.C. 6296).

The Federal testing requirements consist of test procedures that manufacturers of covered products must use as the basis for: (1) Certifying to DOE that their products comply with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6295(s)), and (2) making representations about the efficiency of that product (42 U.S.C. 6293(c)). Similarly, DOE must use these test procedures to determine whether the product complies with relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE is required to follow when prescribing or amending test procedures for covered products. EPCA requires that any test

[1] All references to EPCA in this document refer to the statute as amended through America's Water Infrastructure Act of 2018, Public Law 115–270 (October 23, 2018).

[2] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated as Part A.

procedures prescribed or amended under this section must be reasonably designed to produce test results which reflect the energy efficiency, energy use or estimated annual operating cost of a covered product during a representative average use cycle or period of use and requires that test procedures not be unduly burdensome to conduct. (42 U.S.C.6293(b)(3)) The test procedure for illuminated exit signs is contained in the Code of Federal Regulations (''CFR'') at 10 CFR 431.204, ''Uniform test method for the measurement of energy consumption of illuminated exit signs.'' [3]

Under 10 CFR 431.401, any interested person may submit a petition for waiver from DOE's test procedure requirements. DOE will grant a waiver from the test procedure requirements if DOE determines either that the basic model for which the waiver was requested contains a design characteristic that prevents testing of the basic model according to the prescribed test procedures, or that the prescribed test procedures evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 431.401(f)(2). A petitioner must include in its petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption characteristics. 10 CFR 431.401(b)(1)(iii).

DOE may grant the waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 431.401(f)(2). As soon as practicable after the granting of any waiver, DOE will publish in the **Federal Register** a notice of proposed rulemaking to amend its regulations so as to eliminate any need for the continuation of such waiver. 10 CFR 431.401(l) As soon thereafter as practicable, DOE will publish in the **Federal Register** a final rule. *Id.*

When DOE amends the test procedure to address the issues presented in a waiver, the waiver will automatically terminate on the date on which use of that test procedure is required to demonstrate compliance. 10 CFR 431.401(h)(2).

[3] Although illuminated exit signs are covered products pursuant to EPCA, as a matter of administrative convenience and to minimize confusion among interested parties, DOE codified illuminated exit sign provisions into subpart L of 10 CFR part 431 (the portion of DOE's regulations dealing with commercial and industrial equipment) because typically businesses, rather than individuals, purchase them. 70 FR 60407, 60409 (Oct. 18, 2005). DOE refers to illuminated exit signs as either ''products'' or ''equipment.''

II. Signify's Petition for Waiver

On March 5, 2019, Signify filed a petition for waiver from the test procedure applicable to illuminated exit signs set forth at 10 CFR 431.204. On April 4, 2019, Signify submitted an updated petition, identifying additional basic models.[4] In its petition, Signify requests a waiver for certain ''Chloride by Signify'' and ''Chloride'' branded basic models of illuminated exit signs, typically known as combination exit signs (*i.e.,* they include components such as egress/emergency lighting that require a larger battery than do exit signs that do not have these components).[5] Signify contends that the design characteristics of these basic models prevent testing in accordance with the DOE test procedure. Signify states that DOE's test method measures the input power required to illuminate the exit signage, and that the test procedure does not contemplate those basic models that include emergency egress lighting. Signify further states that the design of its basic models that incorporate emergency lighting does not allow for a separate measurement of power associated with only the exit signage portion of the models.

III. Requested Alternate Test Procedure

EPCA requires that manufacturers use DOE test procedures when making representations about the energy consumption and energy consumption costs of illuminated exit signs covered by the statute. (42 U.S.C. 6293(c)) Consistent representations are important for manufacturers to use in making representations about the energy efficiency of their illuminated exit signs and to demonstrate compliance with applicable DOE energy conservation standards. Pursuant to its regulations applicable to waivers from applicable test procedures at 10 CFR 431.401, and after consideration of public comments on the petition, DOE will consider setting an alternate test procedure for the equipment identified by Signify in a subsequent Decision and Order.

[4] The petition submitted on April 4, 2019 is identical to the March 5, 2019 petition (including the date) except as to the identification of additional basic models, is reprinted at the end of this document.

[5] The eighteen total basic models identified by Signify are as follows: HZ618RIC, HZ636RIC, HZ672RIC, HZ618R1IC, HZ636R1IC, HZ672R1IC, HZ618R2IC, HZ636R2IC, HZ672R2IC, HZ618GIC, HZ636GIC, HZ672GIC, HZ618G1IC, HZ636G1IC, HZ672G1IC, HZ618G2IC, HZ636G2IC, and HZ672G2IC. However, six of these basic models (HZ618RIC, HZ636RIC, HZ672RIC, HZ618GIC, HZ636GIC, and HZ672GIC) are ''no-lamp head'' basic models, which are not combination illuminated exit signs (*i.e.,* they do not have egress lighting) and are therefore would not be subject to any waiver, if granted.

Signify seeks to use an alternate test procedure to test and rate the specified illuminated exit sign basic models. Signify suggests the alternate test method set forth by DOE in the notice of Decision and Order published in response to a request for waiver by Acuity Brands Lighting for certain illuminated exit sign basic models (case number IES–001; hereafter, Acuity Waiver D&O). 83 FR 11740 (March 16, 2018).

Signify suggests that the following method set forth in the Acuity Waiver DO is applicable to its basic models: Measuring the input power of an equivalent non-combination illuminated exit sign, per the DOE test procedure, and assigning the measured input power to the basic model at issue. 83 FR 11740, 11742. An equivalent non-combination illuminated exit sign is one in which the electricity-consuming components are identical to all of those of the unit whose input power demand is being determined, but one that does not include any auxiliary features, and contains an electrically connected battery. Signify states that the basic models for which the waiver is requested have equivalent non-combination illuminated exit sign basic models.

IV. DOE's Proposed Alternate Test Procedure

DOE has reviewed Signify's application for a waiver, the alternate test procedure requested by Signify, and product specification sheets for the basic models under request for waiver. Six of these basic models are not combination illuminated exit signs, and are therefore would not be subject to any waiver, if granted. The specified basic models that are combination illuminated exit signs provide the dual function of exit signage and lighting for emergency egress. Based on DOE's review of combination exit sign circuitry, DOE has tentatively determined that measuring only the input power attributable to illumination of the exit signage is either not possible, or that doing so would require destructive disassembly such as cutting of wires and modifying the circuitry of the combination exit sign, thereby altering the product being tested.

As mentioned in section III, in its petition Signify suggests the use of the alternate test method set forth in the Acuity Waiver D&O that involves testing equivalent non-combination illuminated exit signs. 83 FR 11740, 11742. DOE has identified equivalent non-combination illuminated exit sign basic models for the basic models listed in Signify's petition for waiver. Hence, for basic

models HZ618R1IC, HZ636R1IC, HZ672R1IC, HZ618R2IC, HZ636R2IC, HZ672R2IC, HZ618G1IC, HZ636G1IC, HZ672G1IC, HZ618G2IC, HZ636G2IC, and HZ672G2IC as listed in Signify's petition for waiver, DOE proposes the following alternate test method:

(a) Identify a unit of a non-combination illuminated exit sign (''non-combination unit'') equivalent to the combination unit. A non-combination unit is equivalent only if it consists entirely of electricity-consuming components identical to all of those of the combination unit, but does not include any auxiliary features, and contains an electrically connected battery. The equivalent non-combination unit must also have the same manufacturer and number of faces as the combination unit.

(b) Test the equivalent non-combination unit using the DOE test procedure at 10 CFR part 431, subpart L.

(c) Assign the measured input power demand of the non-combination unit as the input power demand of the combination unit.

Using this method, for each combination illuminated exit sign unit selected, Signify must assign the measured input power demand of a separate corresponding equivalent non-combination unit. For example, if DOE regulations require testing of two units, Signify must identify and measure the input power demand of two equivalent non-combination units, and assign the measured input power of each unit to each of the two combination units, respectively. In those instances where only a single, non-combination unit is available, Signify is required to measure the input power demand of that single unit and assign the measured input power to the combination unit. *See generally* 10 CFR 429.48(a) and 10 CFR 429.11(b)(2).

Based on this review, the alternate test procedure appears to allow for the accurate measurement of energy consumption of this equipment, while alleviating the testing problems associated with Signify's implementation of illuminated exit sign testing for the basic models specified in its petition.

V. Request for Comments

DOE is publishing Signify's petition for waiver in its entirety, pursuant to 10 CFR 431.401(b)(1)(iv).[6] The petition includes the basic models for which Signify is requesting the waiver and Signify's suggested alternate test procedure to determine the efficiency of those specified models, as discussed in section III of this document.

DOE invites all interested parties to submit in writing by September 25, 2019, comments and information on all aspects of the petition, including the alternate test procedure. Pursuant to 10 CFR 431.401(d), any person submitting written comments to DOE must also send a copy of such comments to the petitioner. The contact information for the petitioner is Gary Grant, Signify North America Corporation, Tupelo, MS 38804.

Submitting comments via *https://www.regulations.gov.* The *https://www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *https://www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (''CBI''). Comments submitted through *https://www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *https://www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *https://www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to *https://www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery two well-marked copies: One copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

[6] The petition did not identify any of the information contained therein as confidential business information.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include (1) a description of the items, (2) whether and why such items are customarily treated as confidential within the industry, (3) whether the information is generally known by or available from other sources, (4) whether the information has previously been made available to others without obligation concerning its confidentiality, (5) an explanation of the competitive injury to the submitting person which would result from public disclosure, (6) when such information might lose its confidential character due to the passage of time, and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

Signed in Washington, DC, on August 16, 2019.

Alexander N. Fitzsimmons,

Acting Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

Requestor: Signify North America Corporation

To: U.S. Department of Energy
Building Technologies Program
Test procedure waiver

Date 3/5/2019

Subject: Petition for Waiver from Test Procedure as described in 10 CFR 431, Subpart L for Illuminated Exit Signs

Signify North America Corporation is petitioning for a waiver to the test method described in 10 CFR 430.204 for Illuminated Exit Signs. This waiver request applies to the Chloride by Signify or Chloride branded ''HZ'' series Combination Exit Sign and Unit Equipment products, otherwise known as Combos. This petition is based on the grounds that the design of this product prevents testing as described in accordance with the designated procedure.

1. This petition for waiver includes Basic model numbers HZ672R2IC and HZ672G2IC and the models listed in the Appendix.

2. These models may be sold under the brand name Chloride or Chloride by Signify. Whereas the provision 10 CFR 430.204 references Energy Star V. 2.0 for the Input Power Measurement test method, that method is for Exit Signs alone and not for these basic models which also incorporate Unit Equipment for emergency lighting. This design does not allow for a seperate measurement for only the Exit Sign portion of the equipment.

3. The manufacturers that distribute models similar to the Chloride by Signify models are:

Acuity Brands
Beghelli

4. We propose using the same alternate test method as described in the DOE Notice of decision and order for Case Number IES-001 and published in the **Federal Register**/Vol. 83, No. 52/ Friday, March 16, 2018. The order for the alternate method is set forth in Part IV, section (2) (b). Our product design is such that the Exit Sign portion of this Combination Exit Sign and Unit Equipment is equivalent to our basic Exit Sign as described in the DOE guidelines in section (2) (a).

We thank you for your attention to this and we await your response.

Gary Grant
Development Engineer
Exit & Emergency
Signify North America Corporation
Tupelo, MS
662-690-4131

APPENDIX

Models

HZ618RIC	6V, 18W, Red, no Lamp heads
HZ636RIC	6V, 36W, Red, no Lamp heads
HZ672RIC	6V, 72W, Red, no Lamp heads
HZ618R1IC	6V, 18W, Red, 1 Lamp head
HZ636R1IC	6V, 36W, Red, 1 Lamp head
HZ672R1IC	6V, 72W, Red, 1 Lamp head
HZ618R2IC	6V, 18W, Red, 2 Lamp heads
HZ636R2IC	6V, 36W, Red, 2 Lamp heads
HZ672R2IC	6V, 72W, Red, 2 Lamp heads
HZ618GIC	6V, 18W, Green, no Lamp heads
HZ636GIC	6V, 36W, Green, no Lamp heads
HZ672GIC	6V, 72W, Green, no Lamp heads
HZ618G1IC	6V, 18W, Green, 1 Lamp head
HZ636G1IC	6V, 36W, Green, 1 Lamp head
HZ672G1IC	6V, 72W, Green, 1 Lamp head
HZ618G2IC	6V, 18W, Green, 2 Lamp heads
HZ636G2IC	6V, 36W, Green, 2 Lamp heads
HZ672G2IC	6V, 72W, Green, 2 Lamp heads

[FR Doc. 2019–18298 Filed 8–23–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford; Meeting

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Hanford. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, September 18, 2019; 8:30 a.m.–4:00 p.m.; Thursday, September 19, 2019; 8:30 a.m.–4:00 p.m.

ADDRESSES: Best Western Plus, 1515 George Washington Way, Richland, WA 99354.

FOR FURTHER INFORMATION CONTACT: JoLynn Garcia, Federal Coordinator, U.S. Department of Energy, Office of River Protection, P.O. Box 450, H6–60, Richland, WA 99354; Phone: (509) 376–6244; or Email: *jolynn_m_garcia@orp.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

- Potential Draft Advice
  - Traffic Safety
  - Disclosure of Public Information and Meaningful Public Involvement in Setting Cleanup Budget Priorities
- Consider Letter of Appreciation on Completion of 618–10 Revegetation
- Discussion Topics
  - Tri-Party Agreement Agencies' Updates
  - Approval of Proposed Fiscal Year 2020 Hanford Advisory Board Work Plan and Calendar
  - Presentation on Cumulative Impact Evaluation (CIE)
  - Presentation on Grout Advancements
  - Hanford Advisory Board Committee Reports
  - Board Business

Public Participation: The meeting is open to the public. The EM SSAB, Hanford, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact JoLynn Garcia at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact JoLynn Garcia at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling JoLynn Garcia's office at the address or telephone number listed above. Minutes will also be available at the following website:

http://www.hanford.gov/page.cfm/hab/FullBoardMeetingInformation.

Signed in Washington, DC, on August 20, 2019.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2019–18295 Filed 8–23–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC19–122–000.

Applicants: Union Electric Company, Outlaw Wind Project, LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act, et al. of Union Electric Company, et al.

Filed Date: 8/19/19.

Accession Number: 20190819–5035.

Comments Due: 5 p.m. ET 9/9/19.

Docket Numbers: EC19–123–000.

Applicants: FirstEnergy Solutions Corp., FirstEnergy Generation, LLC, FirstEnergy Nuclear Generation, LLC, FirstEnergy Generation Mansfield Unit 1 Corp., Avenue Capital Management II, L.P.

Description: Application for Authorization Under Section 203 of the Federal Power Act, et al. of FirstEnergy Solutions Corp., et al.

Filed Date: 8/19/19.

Accession Number: 20190819–5111.

Comments Due: 5 p.m. ET 9/9/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2984–045.

Applicants: Merrill Lynch Commodities, Inc.

Description: Notice of Non-Material Change in Status of Merrill Lynch Commodities, Inc.

Filed Date: 8/16/19.

Accession Number: 20190816–5180.

Comments Due: 5 p.m. ET 9/6/19.

Docket Numbers: ER12–2225–009; ER14–2138–006; ER16–1354–005; ER10–1966–010; ER18–2003–003; ER17–822–004; ER17–823–004; ER18–241–003; ER14–2707–014; ER14–1630–008; ER16–1872–006; ER15–1375–006; ER15–2602–004; ER10–2720–019; ER11–4428–019; ER12–1880–018; ER18–2182–003; ER12–895–017; ER18–1535–003; ER14–21–006; ER11–4462–036; ER18–772–003; ER16–2443–003; ER17–1774–002; ER10–1970–015; ER11–4677–013; ER10–1972–015; ER17–838–011; ER10–1973–010; ER10–1951–015; ER10–1974–021; ER16–2241–007; ER10–1975–023; ER12–2444–012; ER10–1976–010; ER10–2641–034; ER16–2506–007; ER16–2297–007; ER14–2710–014; ER15–58–012; ER19–11–002; ER10–1985–010; ER18–2224–005; ER12–676–011; ER13–2461–010; ER17–196–003; ER18–807–003; ER18–1981–003; ER11–2192–014; ER16–1913–004; ER16–1440–008; ER16–2240–008; ER14–2708–015; ER14–2709–014; ER15–30–012; ER15–2243–004; ER15–1016–006; ER10–1989–012; ER19–774–003; ER13–2474–013; ER10–1991–015; ER17–2270–007; ER18–2091–002; ER12–1660–015; ER13–2458–010; ER11–4678–013; ER10–1994–011; ER17–582–004; ER10–2078–016; ER16–1293–005; ER16–1277–006; ER17–583–004; ER18–2032–003; ER10–1995–012; ER12–631–014.

Applicants: Limon Wind II, LLC, Limon Wind III, LLC, Live Oak Solar, LLC, Logan Wind Energy LLC, Lorenzo Wind, LLC, Luz Solar Partners Ltd., III, Luz Solar Partners Ltd., IV, Luz Solar Partners Ltd., V, Mammoth Plains Wind Project, LLC, Manuta Creek Solar, LLC, Marshall Solar, LLC, McCoy Solar, LLC, Meyersdale Storage, LLC, Minco Wind, LLC, Minco Wind II, LLC, Minco Wind III, LLC, Minco IV & V Interconnection, LLC, Minco Wind Interconnection Services, LLC, Montauk Energy Storage Center, LLC, Mountain View Solar, LLC, NEPM II, LLC, New Mexico Wind, LLC, NextEra Blythe Solar Energy Center, LLC, NextEra Energy Bluff Point, LLC, NextEra Energy Duane Arnold, LLC, NextEra Energy Montezuma II Wind, LLC, NextEra Energy Point Beach, LLC, NextEra Energy Marketing, LLC, NextEra Energy Seabrook, LLC, NextEra Energy Services Massachusetts, LLC, Northeast Energy Associates, A Limited Partnership, Ninnescah Wind Energy, LLC, North Jersey Energy Associates, A Limited Partnership, North Sky River Energy, LLC, Northern Colorado Wind Energy, LLC, Oleander Power Project, Limited Partnership, Oliver Wind III, LLC, Osborn Wind Energy, LLC, Palo Duro Wind Energy, LLC, Palo Duro Wind Interconnection Services, LLC, Peetz Logan Interconnect, LLC, Peetz Table Wind Energy, LLC, Pegasus Wind, LLC, Perrin Ranch Wind, LLC, Pheasant Run Wind, LLC, Pima Energy Storage System, LLC, Pinal Central Energy Center, LLC, Pratt Wind, LLC, Red Mesa Wind, LLC, River Bend Solar, LLC, Roswell Solar, LLC, Rush Springs Wind Energy, LLC, Seiling Wind, LLC, Seiling Wind II, LLC, Seiling Wind Interconnection Services, LLC, Silver State Solar Power South, LLC, Shafter Solar, LLC, Sky River LLC, Stanton Clean Energy, LLC, Steele Flats Wind Project, LLC, Story Wind, LLC, Stuttgart Solar, LLC, Titan Solar, LLC, Tuscola Bay Wind, LLC, Tuscola Wind II, LLC, Vasco Winds, LLC, Wessington Wind Energy Center, LLC, Westside Solar, LLC, White Oak Energy LLC, White Oak Solar, LLC, White Pine Solar, LLC, Whitney Point Solar, LLC, Wildcat Ranch Wind Project, LLC, Wilton Wind II, LLC, Windpower Partners 1993, LLC.

Description: Notice of Change in Status of the NextEra MBR Sellers (Part 2).

Filed Date: 8/15/19.

Accession Number: 20190815–5220.

Comments Due: 5 p.m. ET 9/5/19.

Docket Numbers: ER16–233–002.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.19a(b): Refund Report_Illinois Power Resources Generating to be effective N/A.

Filed Date: 8/16/19.

Accession Number: 20190816–5190.

Comments Due: 5 p.m. ET 9/6/19.

Docket Numbers: ER19–2627–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 1628R16 Western Farmers Electric Cooperative NITSA NOA to be effective 8/1/2019.

Filed Date: 8/19/19.

Accession Number: 20190819–5028.

Comments Due: 5 p.m. ET 9/9/19.

Docket Numbers: ER19–2628–000.

Applicants: South Point Energy Center, LLC.

Description: § 205(d) Rate Filing: Certificate of Concurrence to Southwest Reserve Sharing Group Participation Agmt to be effective 6/1/2019.

Filed Date: 8/19/19.

Accession Number: 20190819–5079.

Comments Due: 5 p.m. ET 9/9/19.

Docket Numbers: ER19–2629–000.

Applicants: Fowler Ridge Wind Farm LLC.

Description: Compliance filing: Update Affiliate Waivers re Order in Docket Nos. ER11–2774, ER12–303 to be effective 8/20/2019.

Filed Date: 8/19/19.

Accession Number: 20190819–5082.

Comments Due: 5 p.m. ET 9/9/19.

Docket Numbers: ER19–2630–000.

Applicants: Dominion Energy Generation Marketing, Inc.

Description: Compliance filing: Compliance Filing—Affiliate Waiver Update (ER11–2774, ER12–303) to be effective 8/20/2019.

Filed Date: 8/19/19.

Accession Number: 20190819–5083.

Comments Due: 5 p.m. ET 9/9/19.

Docket Numbers: ER19–2631–000.

Applicants: Dominion Energy Nuclear Connecticut, Inc.

Description: Compliance filing: Compliance Filing—Affiliate Waiver Update to be effective 8/20/2019.

Filed Date: 8/19/19.

Accession Number: 20190819–5091.

Comments Due: 5 p.m. ET 9/9/19.

Docket Numbers: ER19–2632–000.

Applicants: Virginia Electric and Power Company.

Description: Compliance filing: Compliance Filing—2019 Affiliate Waivers to be effective 8/20/2019.

Filed Date: 8/19/19.

Accession Number: 20190819–5092.

Comments Due: 5 p.m. ET 9/9/19.

Docket Numbers: ER19–2633–000.

Applicants: Virginia Electric and Power Company.

Description: Compliance filing: Compliance Filing—2019 Affiliate Waivers to be effective 8/20/2019.

Filed Date: 8/19/19.

Accession Number: 20190819–5093.

Comments Due: 5 p.m. ET 9/9/19.

Docket Numbers: ER19–2634–000.

Applicants: Duke Energy Carolinas, LLC.

Description: § 205(d) Rate Filing: DEC–PMPA (RS No. 340) Amendment to PPA to be effective 1/1/2018.

Filed Date: 8/19/19.

Accession Number: 20190819–5095.

Comments Due: 5 p.m. ET 9/9/19.

Docket Numbers: ER19–2635–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA, SA No. 896; Queue Nos. D05 and K21 (amend) to be effective 7/13/2004.

Filed Date: 8/19/19.

Accession Number: 20190819–5107.

Comments Due: 5 p.m. ET 9/9/19.

Docket Numbers: ER19–2636–000.

Applicants: Northern Indiana Public Service Company.

Description: § 205(d) Rate Filing: Updated IA Agreement to be effective 12/27/2011.

Filed Date: 8/19/19.

Accession Number: 20190819–5110.

Comments Due: 5 p.m. ET 9/9/19.

Docket Numbers: ER19–2637–000.

Applicants: Dominion Energy South Carolina, Inc.

Description: Compliance filing: NMST Tariff (Extend Affiliate Restrictions Waiver) to be effective 8/20/2019.

Filed Date: 8/19/19.

Accession Number: 20190819–5131.

Comments Due: 5 p.m. ET 9/9/19.

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: August 19, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–18271 Filed 8–23–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP19–1353–000]

Northern Natural Gas Company; Notice of Technical Conference

Take notice that a technical conference will be held on Tuesday, September 24, 2019 at 10:00 a.m. (Eastern Daylight Time), at a room to be designated, at the offices of the Federal Energy Regulatory Commission, 888 First Street NE, Washington DC 20426.

At the technical conference, the Commission Staff and the parties to the proceeding should be prepared to discuss all issues raised by the filing and set for technical conference by the Commission in its July 31, 2019 order, *Northern Natural Gas Co.,* 168 FERC ¶ 61,069. All interested persons are permitted to attend.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–502–8659 (TTY); or send a fax to 202–208–2106 with the required accommodations.

For more information about this technical conference please contact Cyril McNeill at (202)–502–8748 or *Cyril.McNeill@ferc.gov.*

Dated: August 20, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–18290 Filed 8–23–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Number: PR19–71–000.

Applicants: Louisville Gas and Electric Company.

Description: Tariff filing per 284.123(b),(e)/: Revised SOC and Corrected Tariff Records to be effective 5/1/2019.

Filed Date: 8/14/19.

Accession Number: 201908145056.

Comments/Protests Due: 5 p.m. ET 9/4/19.

Docket Number: PR17–60–003.

Applicants: Atmos Pipeline-Texas.

Description: Tariff filing per 284.123(b),(e)/: PR17–60 APT 2019 Compliance Filing to be effective 9/1/2017.

Filed Date: 8/15/19.

Accession Number: 201908155020.

Comments/Protests Due: 5 p.m. ET 9/5/19.

Docket Number: PR19–72–000.

Applicants: Acadian Gas Pipeline System.

Description: Tariff filing per 284.123(b)(2)+(g): Merger and Rate Filing 2019 to be effective 10/1/2019.

Filed Date: 8/15/19.

Accession Number: 201908155140.

Comments Due: 5 p.m. ET 9/5/19.

284.123(g) Protests Due: 5 p.m. ET 10/15/19.

Docket Numbers: RP19–1034–001.

Applicants: DBM Pipeline, LLC.

Description: Compliance filing Compliance Filing to be effective 8/1/2019.

Filed Date: 8/15/19.

Accession Number: 20190815–5023.

Comments Due: 5 p.m. ET 8/27/19.

Docket Numbers: RP19–1035–001.

Applicants: KPC Pipeline, LLC.

Description: Compliance filing Compliance Filing to be effective 8/1/2019.

Filed Date: 8/15/19.

Accession Number: 20190815–5021.

Comments Due: 5 p.m. ET 8/27/19.

Docket Numbers: RP19–1036–001.

Applicants: MarkWest New Mexico, L.L.C.

Description: Compliance filing Compliance Filing to be effective 8/1/2019.

Filed Date: 8/15/19.

Accession Number: 20190815–5019.

Comments Due: 5 p.m. ET 8/27/19.

Docket Numbers: RP19–1037–001.

Applicants: MarkWest Pioneer, L.L.C.

Description: Compliance filing Compliance Filing to be effective 8/1/2019.

Filed Date: 8/15/19.

Accession Number: 20190815–5018.

Comments Due: 5 p.m. ET 8/27/19.

Docket Numbers: RP19–1038–001.

Applicants: NGO Transmission, Inc.

Description: Compliance filing Compliance Filing to be effective 8/1/2019.

Filed Date: 8/15/19.

Accession Number: 20190815–5017.

Comments Due: 5 p.m. ET 8/27/19.

Docket Numbers: RP19–1039–002.

Applicants: Venice Gathering System, L.L.C.

Description: Compliance filing VGS Second Order No. 587–Y Compliance Filing to be effective 8/1/2019.

Filed Date: 8/15/19.

Accession Number: 20190815–5032.

Comments Due: 5 p.m. ET 8/27/19.

Docket Numbers: RP19–1051–001.

Applicants: National Grid LNG, LLC.

Description: Compliance filing Filing in Compliance with July 29, 2019 Order 587–Y Compliance Filings Order to be effective 8/1/2019.

Filed Date: 8/15/19.

Accession Number: 20190815–5141.

Comments Due: 5 p.m. ET 8/27/19.

Docket Numbers: RP19–1070–001.

Applicants: Western Gas Interstate Company.

Description: Compliance filing Order No. 587–Y Compliance (NAESB Version 3.1) Amendment 1 to be effective 8/1/2019.

Filed Date: 8/15/19

Accession Number: 20190815–5179.

Comments Due: 5 p.m. ET 8/27/19.

Docket Numbers: RP19–1085–001.

Applicants: Eastern Shore Natural Gas Company.

Description: Compliance filing Order No. 587–Y Compliance Filing Part 2 to be effective 8/1/2019.

Filed Date: 8/15/19.

Accession Number: 20190815–5053.

Comments Due: 5 p.m. ET 8/27/19.

Docket Numbers: RP19–1473–000.

Applicants: Gulf South Pipeline Company, LP.

Description: § 4(d) Rate Filing: Clarifications and Clean-up Items Related to Future GMS Implementation to be effective 9/15/2019.

Filed Date: 8/15/19.

Accession Number: 20190815–5045.

Comments Due: 5 p.m. ET 8/27/19.

Docket Numbers: RP19–1474–000.

Applicants: LA Storage, LLC.

Description: § 4(d) Rate Filing: Filing of Negotiated Rate, Conforming IW Agreements to be effective 8/15/2019.

Filed Date: 8/15/19.

Accession Number: 20190815–5094.

Comments Due: 5 p.m. ET 8/27/19.

Docket Numbers: RP19–1475–000.

Applicants: Texas Eastern Transmission, LP.

Description: § 4(d) Rate Filing: Negotiated Rate—MC Global to CIMA Energy—895824 to be effective 8/19/2019.

Filed Date: 8/15/19.

Accession Number: 20190815–5098.

Comments Due: 5 p.m. ET 8/27/19.

Docket Numbers: RP19–1476–000.

Applicants: Equitrans, L.P.

Description: § 4(d) Rate Filing: Negotiated Retainage Update to be effective 9/1/2019.

Filed Date: 8/15/19.

Accession Number: 20190815–5181.

Comments Due: 5 p.m. ET 8/27/19.

Docket Numbers: RP19–581–002.

Applicants: Rager Mountain Storage Company LLC.

Description: Compliance filing NAESB 3.1 Compliance Filing—Order No. 587–Y to be effective 8/1/2019.

Filed Date: 8/15/19.

Accession Number: 20190815–5184.

Comments Due: 5 p.m. ET 8/27/19.

Docket Numbers: RP19–582–002.

Applicants: Equitrans, L.P.

Description: Compliance filing NAESB 3.1 Compliance Filing—Order No. 587–Y to be effective 8/1/2019.

Filed Date: 8/15/19.

Accession Number: 20190815–5180.

Comments Due: 5 p.m. ET 8/27/19.

Docket Numbers: RP19–824–001.

Applicants: Dominion Energy Questar Pipeline, LLC.

Description: Compliance filing NAESB 3.1 Compliance Filing to be effective 8/1/2019.

Filed Date: 8/15/19.

Accession Number: 20190815–5161.

Comments Due: 5 p.m. ET 8/27/19.

Docket Numbers: RP19–825–001.

Applicants: Dominion Energy Overthrust Pipeline, LLC.

Description: Compliance filing NAESB 3.1 Compliance Filing to be effective 8/1/2019.

Filed Date: 8/15/19.

Accession Number: 20190815–5165.

Comments Due: 5 p.m. ET 8/27/19.

Docket Numbers: RP19–826–001.

Applicants: Questar Southern Trails Pipeline Company.

Description: Compliance filing NAESB 3.1 Compliance Filing to be effective 8/1/2019.

Filed Date: 8/15/19.

Accession Number: 20190815–5172.

Comments Due: 5 p.m. ET 8/27/19.

Docket Numbers: RP19–828–001.

Applicants: White River Hub, LLC.

Description: Compliance filing NAESB 3.1 Compliance Filing to be effective 8/1/2019.

Filed Date: 8/15/19.

Accession Number: 20190815–5169.

Comments Due: 5 p.m. ET 8/27/19.

Docket Numbers: RP19–839–002.

Applicants: Vector Pipeline L.P.

Description: Compliance filing NAESB 3.1 Compliance Filing—Sheet 159E Correction to be effective 8/1/2019.

Filed Date: 8/15/19.

Accession Number: 20190815–5057.

Comments Due: 5 p.m. ET 8/27/19.

Docket Numbers: RP19–894–001.

Applicants: Alliance Pipeline L.P.

Description: Compliance filing RP19–894–000 Order 587–Y Compliance Filing to be effective 8/1/2019.

Filed Date: 8/15/19.

Accession Number: 20190815–5027.

Comments Due: 5 p.m. ET 8/27/19.

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 date(s). 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: August 19, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–18272 Filed 8–23–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL19–89–000]

East Kentucky Power Cooperative, Inc. on Behalf of Itself and Its Owner-Members; Notice of Petition for Partial Waiver

Take notice that on August 19, 2019, pursuant to section 292.402 of the Federal Energy Regulatory Commission's (Commission) Rules and Regulations,[1] East Kentucky Power Cooperative, Inc. (EKPC), on behalf of itself and certain of its electric distribution cooperative owner-members (collectively, the Members),[2] filed a partial waiver of certain obligations imposed on EKPC and the Members under sections 292.303(a) and 292.303(b) of the Commission's regulations [3] implementing section 210 of the Public Utility Regulatory Policies Act of 1978, as amended, all as more fully explained in the petition.

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. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''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.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comments: 5:00 p.m. Eastern Time on September 9, 2019.

Dated: August 20, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–18291 Filed 8–23–19; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 292.402.

[2] EKPC's owner-members joining in this request are Big Sandy Rural Electric Cooperative Corporation, Blue Grass Energy Cooperative Corporation, Clark Energy Cooperative Inc., Cumberland Valley Electric Inc., Farmers Rural Electric Cooperative Corporation, Fleming-Mason Energy Cooperative, Inc., Grayson Rural Electric Cooperative Corporation, Inter-county Energy Cooperative, Licking Valley Rural Electric Cooperative Corporation, Nolin Rural Electric Cooperative Corporation, Owen Electric Cooperative, Inc., Shelby Energy Cooperative, Inc., South Kentucky Rural Electric Cooperative Corporation, and Taylor County Rural Electric Cooperative Corporation.

[3] 18 CFR 292.303(a) and 292.303(b) (2019).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD19–15–000]

Managing Transmission Line Ratings; Supplemental Notice of Technical Conference

As announced in the Notice of Technical Conference issued in this proceeding on June 28, 2019, the Federal Energy Regulatory Commission (Commission) will convene a staff-led technical conference in the above-referenced proceeding on Tuesday, September 10, 2019 from approximately 8:45 a.m. to 5:00 p.m., and Wednesday, September 11, 2019 from approximately 8:45 a.m. to 1:00 p.m. Eastern Time. The conference will be held in Hearing Room 1 at Commission headquarters, 888 First Street NE, Washington, DC 20426. Commissioners may attend and participate. The purpose of this conference is to discuss issues related to transmission line ratings, with a focus on dynamic and ambient-adjusted line ratings. In particular, this conference will explore what transmission line rating methodologies and related practices might constitute best practices, and what, if any, Commission action in these areas might be appropriate. There will be an opportunity to provide comments after the conference. A notice establishing a date when comments are due will be published after the conference.

The conference will be open for the public to attend in person, or to attend remotely via a webcast. Those who plan to attend the conference in person are encouraged to complete the registration form located at *http://www.ferc.gov/whats-new/registration/09-10-19-form.asp.* There is no registration deadline for in person attendees, but we strongly encourage attendees who are not citizens of the United States to register for the conference as soon as possible, in order to avoid any delay associated with being processed by FERC security. Those who plan to attend the conference remotely via webcast must register by 5:00 p.m. EST on September 3, 2019. The webcast may not be available to those who do not register.

Information on the technical conference (including a link to the webcast) will be posted on the Calendar of Events on the Commission's website, *http://www.ferc.gov.* The conference will be transcribed. Transcripts will be available immediately for a fee from Ace Reporting (202–347–3700).

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–502–8659 (TTY), or send a fax to 202–208–2106 with the required accommodations.

For more information about this technical conference, please contact:

Sarah McKinley (Logistical Information), Office of External Affairs, (202) 502–8004, *Sarah.Mckinley@ferc.gov;* Dillon Kolkmann (Technical Information), Office of Energy Policy and Innovation, (202) 502–8650, *Dillon.Kolkmann@ferc.gov.*

Dated: August 20, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–18292 Filed 8–23–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL18–174–000]

Midcontinent Independent System Operator, Inc.; Notice of Filing

Take notice that on August 19, 2019, Midcontinent Independent System Operator, Inc. submitted a Compliance Refund Report regarding Reactive Power Supply by American Municipal Power, Inc.'s Smithland Hydroelectric Facility in the MISO Region, pursuant to the

Federal Energy Regulatory Commission's May 16, 2019 Order.[1]

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.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on September 9, 2019.

Dated: August 20, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–18288 Filed 8–23–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL18–172–000]

Midcontinent Independent System Operator, Inc.; Notice of Filing

Take notice that on August 19, 2019, Midcontinent Independent System Operator, Inc. submitted a Compliance Refund Report regarding Reactive Power Supply by American Municipal Power, Inc.'s Cannelton Hydroelectric Facility in the MISO Region, pursuant to the Federal Energy Regulatory Commission's May 16, 2019 Order.[1]

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.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on September 9, 2019.

Dated: August 20, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–18289 Filed 8–23–19; 8:45 am]

BILLING CODE 6717–01–P

[1] *American Municipal Power, Inc., 167 FERC ¶61,137 (May 16, 2019).*

[1] *American Municipal Power, Inc., 167 FERC ¶61,137 (May 16, 2019).*

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2003–0152; FRL–9998–53–OAR]

Proposed Information Collection Request; Comment Request; Compliance Assurance Monitoring Program (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency is planning to submit an information collection request (ICR), ''Compliance Assurance Monitoring Program (Renewal)'' (EPA ICR No. 1663.10, OMB Control No. 2060–0376) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA). Before doing so, the EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through June 30, 2020. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before October 25, 2019.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2003–0152, online using *https://www.regulations.gov/* (our preferred method), by email to *a-and-r-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

The EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Mr. Muntasir Ali, Office of Air Quality Planning and Standards, Sector Policies and Programs Division (D243–05), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–0833; email address: *ali.muntasir@epa.gov*.

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public

docket for this ICR. The docket can be viewed online at *https://www.regulations.gov/* or in person at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the EPA Docket Center is 202–566–1744. For additional information about the EPA's public docket, visit *https://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, the EPA is soliciting comments and information to enable it to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (2) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, 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. The EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, the EPA will issue another **Federal Register** document to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: The Clean Air Act (CAA) contains several provisions directing the EPA to require source owners to conduct monitoring to support certification as to their status of compliance with applicable requirements. These provisions are set forth in section 504 and section 114 of the CAA. Under CAA section 504(c), each operating permit must ''set forth inspection, entry, monitoring, compliance, certification and reporting requirements to assure compliance with the permit terms and conditions.'' See also CAA section 504(c) (each permit shall require reporting of monitoring the EPA and such other conditions as are necessary to assure compliance). CAA section 504(b) allows to prescribe by rule, methods and procedures for determining compliance, recognizing that continuous emissions monitoring systems need not be required if other procedures or methods provide sufficiently reliable and timely information for determining compliance. Section 114(a)(1) of the CAA provides additional authority concerning monitoring, reporting, and recordkeeping requirements. This section provides the Administrator with the authority to require any owner/operator of a source to install and to operate monitoring systems and to record the resulting monitoring data. The EPA promulgated the Compliance Assurance Monitoring (CAM) Rule, 40 CFR part 64, on October 22, 1997 (62 FR 54900), pursuant to these provisions. In accordance with CAA section 114(c) and CAA section 503(e), the monitoring information source owners must submit must also be available to the public except under circumstances set forth in section 114(c) of the CAA. 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 OMB control numbers for the EPA's regulations are listed in 40 CFR part 9.

Form numbers: None.

Respondents/affected entities: Entities potentially affected by this section are all facilities required to have an operating permit under title V of the CAA. See section 502(a) of the CAA, which defines the sources to obtain a title V permit. See also 40 CFR 70.2 and 71.2.

Respondent's obligation to respond: Mandatory under title V of the CAA. See section 502(a) of the CAA, which defines the sources required to obtain a title V permit. See also 40 CFR 70.2 and 71.2.

Estimated number of respondents: There are 21,448 pollutant specific emission units (PSEUs), where the number of respondents is the number of PSEUs subject to the compliance assurance monitoring rule, and 117 permitting authorities. Therefore, the estimated number of respondents is 21,565 (total).

Frequency of response: At least every 6 months per title V, 40 CFR 70.6(a)(3)(iii)(A) and (B).

Total estimated burden: 24,590 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $999,211 (per year), includes $0 annualized capital or operation and maintenance costs.

Changes in estimates: There is a decrease of 26,490 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This decrease is due to an updated estimate of the number of sources and permits subject to the 40 CFR part 70 programs (a reduction of 1,768 permits), an increase in the number of permitting authorities (an addition of one), and a decrease in the number of CAM plan renewal review hours (a decrease of 5.5 hours per occurrence), rather than any new federal mandates (*i.e.,* changes in paperwork requirements to respondents). The decrease in total estimated burden hours leads to a decrease in total estimated cost.

Dated: August 21, 2019.

Penny Lassiter,

Director, Sector Policies and Program Division.

[FR Doc. 2019–18311 Filed 8–23–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2014–0125; FRL–9994–46]

Pesticide Reregistration Performance Measures and Goals; Annual Progress Report; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's progress reports in meeting its performance measures and goals for pesticide reregistration during fiscal years 2013, 2014, 2015, and 2016. The progress reports also present total numbers of products registered under the ''fast-track'' provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

DATES: Submit comments on or before October 25, 2019.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2014–0125, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Ramé Cromwell, Antimicrobials

Division (7510P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 308–9068; email address: *cromwell.rame@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

This is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the integration of tolerance reassessment with the reregistration process, and the status of various regulatory activities associated with reregistration and tolerance reassessment. Given the broad interest, the Agency has not attempted to identify or describe all the specific entities that may be interested in this action.

II. What action is the Agency taking?

This notice announces the availability of EPA's progress reports in meeting its performance measures and goals for pesticide reregistration during fiscal years 2013, 2014, 2015, and 2016.

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.,* requires EPA to publish information about EPA's annual achievements in meeting its performance measures and goals for pesticide reregistration. The reports for fiscal years 2013, 2014, 2015, and 2016 discuss the integration of tolerance reassessment with the reregistration process, and describe the status of various regulatory activities associated with reregistration and tolerance reassessment. The 2013, 2014, 2015 and 2016 reports also give total numbers of products reregistered and products registered under the ''fast-track'' provisions of FIFRA.

III. How can I get a copy of the reports?

1. *Docket.* The 2013, 2014, 2015 and 2016 reports are available at *http://www.regulations.gov,* under docket ID number EPA–HQ–OPP–2014–0125.

2. *EPA Website.* The 2013, 2014, 2015 and 2016 reports are also available on EPA's website at *https://www.epa.gov/pesticide-reevaluation/reregistration-and-other-review-programs-predating-pesticide-registration*.

IV. Can I comment on these reports?

EPA welcomes input from stakeholders and the general public. Any written comments received will be taken into consideration in the event that EPA determines that further action is warranted. EPA does not expect these reports to lead to any particular action, and therefore is not seeking particular public comment.

V. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html*.

Authority: 7 U.S.C. 136a–1(l).

Dated: August 20, 2019.

Alexandra Dapolito Dunn,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2019–18302 Filed 8–23–19; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 19–782]

Consumer Advisory Committee; Meeting

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Commission announces the next meeting date, time, and agenda of its Consumer Advisory Committee (hereinafter the ''Committee'').

DATES: September 16, 2019, 9:00 a.m. to 1:00 p.m.

ADDRESSES: Federal Communications Commission, 445 12th Street SW, Commission Meeting Room TW–C305, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Scott Marshall, Designated Federal Officer of the Committee, (202) 418–2809 (voice or Relay), email: *Scott.Marshall@fcc.gov;* or Christina Clearwater, Deputy Designated Federal Officer of the Committee, (202) 418–1893 (voice), email: *Christina.Clearwater@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document (DA 19–782), released August 16, 2019, announcing the Agenda, Date, and Time of the Committee's next meeting.

Proposed Agenda: At its September 16, 2019, meeting, the Committee is expected to consider a recommendation presented by its Critical Calls List/Robocall Blocking Working Group relative to the Third Further Notice of Proposed Rulemaking in *Advanced Methods to Target and Eliminate Unlawful Robocalls; Call Authentication Trust Anchor,* CG Docket No. 17–59, WC Docket No. 17–97, published at 84 FR 29478, June 24, 2019. The Committee may also receive briefings from Commission staff or outside speakers on issues of interest to the Committee and may discuss topics including, but not limited to, consumer protection and education, consumer participation in the Commission's rulemaking process, and the impact of new and emerging communication technologies.

A limited amount of time will be available for comments from the public. If time permits, the public may ask questions of presenters via the email address *livequestions@fcc.gov* or via Twitter using the hashtag #fcclive. The public may also follow the meeting on Twitter @fcc or via the Commission's Facebook page at *www.facebook.com/fcc.* Alternatively, members of the public may send written comments to: Scott Marshall, Designated Federal Officer of the Committee, or Christina Clearwater, Deputy Designated Federal Officer of the Committee, at the addresses above.

This meeting is open to members of the general public. The Commission will accommodate as many participants as possible; however, admission will be limited to seating availability. The Commission will also provide audio and/or video coverage of the meeting over the internet from the Commission's web page at: *www.fcc.gov/live.* Oral statements at the meeting by parties or entities not represented on the Committee will be permitted to the extent time permits, at the discretion of the Committee Chair and the Designated Federal Officer. Members of the public may submit comments to the Committee in the Commission's Electronic Comment Filing System, ECFS, at: *www.fcc.gov/ecfs/.*

Open captioning will be provided for this event. Other reasonable

accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to: *fcc504@fcc.gov* or by calling the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). Such requests should include a detailed description of the accommodation needed.

In addition, please include a way for the Commission to contact the requester if more information is needed to fill the request. Please allow at least five days' advance notice; last minute requests will be accepted but may not be possible to accommodate.

Federal Communications Commission.

Gregory Haledjian,

Legal Advisor, Consumer and Governmental Affairs Bureau.

[FR Doc. 2019–18315 Filed 8–23–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 11, 2019.

B. Federal Reserve Bank of Minneapolis (Chris Wangen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Lincoln Investment Company, Lennox, South Dakota;* to acquire certain assets of Berens Insurance Agency, Inc., Parker, South Dakota, and thereby engage in general insurance activities in a community that has a population not exceeding 5,000 pursuant to section 225.28(b)(11)(iii)(A) of Regulation Y.

Board of Governors of the Federal Reserve System, August 21, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–18333 Filed 8–23–19; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 23, 2019.

A. Federal Reserve Bank of New York (Ivan Hurwitz, Senior Vice President) 33 Liberty Street, New York, New York 10045–0001. Comments can also be sent electronically to *Comments.applications@ny.frb.org:*

1. *OFG Bancorp, San Juan, Puerto Rico;* to indirectly acquire 100 percent of the voting shares of Scotiabank de Puerto Rico, Hato Rey, Puerto Rico.

B. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Wintrust Financial Corporation, Rosemont, Illinois;* to acquire SBC Incorporated, and thereby indirectly acquire Countryside Bank, both of Countryside, Illinois.

C. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Bern Bancshares, Inc., Bern, Kansas;* to acquire up to seven percent of the voting shares of UBT Bancshares, Inc., Marysville, Kansas, and thereby indirectly acquire United Bank & Trust, Marysville, Kansas.

Board of Governors of the Federal Reserve System, August 20, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–18255 Filed 8–23–19; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise

noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 24, 2019.

A. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *BayCom Corp, Walnut Creek, California;* to merge with TIG Bancorp, and thereby indirectly acquire First State Bank of Colorado, both of Greenwood Village, Colorado.

Board of Governors of the Federal Reserve System, August 20, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–18256 Filed 8–23–19; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 9, 2019.

A. Federal Reserve Bank of Minneapolis (Chris Wangen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Stephen P. Stenehjem, West Fargo, North Dakota, Erik P. Stenehjem, Paradise Valley, Arizona, Kira L. Stenehjem Noll, and Kristen K. Stenehjem, both of Watford City, North Dakota, to join the Stenehjem family shareholder group acting in concert;* to retain voting shares of Watford City Bancshares, Inc., and indirectly retain shares of First International Bank and Trust, both of Watford City, North Dakota.

Board of Governors of the Federal Reserve System, August 20, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–18254 Filed 8–23–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0091; Docket No. 2019–0003; Sequence No. 29]

Information Collection; Anti-Kickback Procedures

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, and the Office of Management and Budget (OMB) regulations, DoD, GSA, and NASA invite the public to comment on a revision and renewal concerning Anti-Kickback procedures.

DoD, GSA, and NASA invite comments on: Whether the proposed collection of information is necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. OMB has approved this information collection for use through October 31, 2019. DoD, GSA, and NASA propose that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD, GSA, and NASA will consider all comments received by October 25, 2019.

ADDRESSES: DoD, GSA, and NASA invite interested persons to submit comments on this collection by either of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. Go to *http://www.regulations.gov* and follow the instructions on the site.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405. ATTN: Lois Mandell/IC 9000–0091, Anti-Kickback Procedures.

Instructions: All items submitted must cite Information Collection 9000–0091, Anti-Kickback Procedures. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two-to-three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Cecelia L. Davis, Procurement Analyst, at telephone 202–219–0202, or *cecelia.davis@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000–0091, Anti-Kickback Procedures.

B. Need and Uses

Federal Acquisition Regulation (FAR) 52.203–7, Anti-Kickback Procedures, requires that all contractors have in place and follow reasonable procedures designed to prevent and detect in its own operations and direct business relationships, violations of 41 U.S.C. chapter 87, Kickbacks. Whenever prime contractors or subcontractors have reasonable grounds to believe that a violation of the statute may have occurred, they are required to report the possible violation in writing to the contracting agency inspector general, the head of the contracting agency if an agency does not have an inspector general, or the Department of Justice. The information is used to determine if any violations of the statute have occurred.

There is no Governmentwide data collection process or system which identifies the number of alleged violations of 41 U.S.C. chapter 87, Kickbacks, that are reported annually to agency inspectors general, the heads of the contracting agency if an agency does not have an inspector general, or the Department of Justice.

C. Annual Burden

Respondents: 100.
Total Annual Responses: 100.

Total Burden Hours: 2,000.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405, telephone 202–501–4755.

Please cite OMB Control No. 9000–0091, Anti-Kickback Procedures, in all correspondence.

Dated: August 21, 2019.

Janet Fry.

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2019–18312 Filed 8–23–19; 8:45 am]

BILLING CODE 6820–EP–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0310; Docket No. 2019–0001; Sequence No. 8]

Information Collection; Nondiscrimination in Federal Financial Assistance Programs, GSA Form 3702

AGENCY: Office of Civil Rights, General Services Administration (GSA).

ACTION: Notice of request for comments regarding an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an existing information collection requirement regarding OMB Control No: 3090–0310; Nondiscrimination in Federal Financial Assistance Programs, GSA 3702. This information is needed to facilitate nondiscrimination in GSA's Federal Financial Assistance Programs, consistent with Federal civil rights laws and regulations that apply to recipients of Federal financial assistance.

DATES: Submit comments on or before: October 25, 2019.

FOR FURTHER INFORMATION CONTACT: Evelyn Britton, Director, External Programs Division, Office of Civil Rights, at telephone 202–603–1645 or via email to *evelyn.britton@gsa.gov.*

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 3090–0310, Nondiscrimination in Federal Financial Assistance Programs, GSA 3702''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 3090–0310, Nondiscrimination in Federal Financial Assistance Programs, GSA 3702'' on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405. ATTN: Ms. Mandell/IC 3090–0228, Nondiscrimination in Federal Financial Assistance Programs, GSA 3702.

Instructions: Please submit comments only and cite Information Collection 3090–0310, Nondiscrimination in Federal Financial Assistance Programs, GSA 3702, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

SUPPLEMENTARY INFORMATION:

A. Purpose

GSA has mission responsibilities related to monitoring and enforcing compliance with Federal civil rights laws and regulations that apply to Federal financial assistance programs administered by GSA. Specifically, those laws provide that no person on the ground of race, color, national origin, disability, sex or age shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program in connection with which Federal financial assistance is extended under laws administered in whole, or in part, by GSA.

These mission responsibilities generate the requirement to request and obtain certain data from recipients of Federal surplus property for the purpose of determining compliance, such as the number of individuals, based on race and ethnic origin, of the recipient's eligible and actual serviced population; race and national origin of those denied participation in the recipient's program(s); non-English languages encountered by the recipient's program(s) and how the recipient is addressing meaningful access for individuals that are Limited English Proficient; whether there has been complaints or lawsuits filed against the recipient based on prohibited discrimination and whether there has been any findings; and whether the recipient's facilities are accessible to qualified individuals with disabilities.

B. Annual Reporting Burden

Respondents: 1200.
Responses per Respondent: 1.
Total Responses: 1200.
Hours per Response: 2.
Total Burden Hours: 2400.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 3090–0310, Nondiscrimination in Federal Financial Assistance Programs, GSA 3702, in all correspondence.

Dated: August 15, 2019.

David A. Shive,

Chief Information Officer.

[FR Doc. 2019–18350 Filed 8–23–19; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0056; Docket No. 2019–0003; Sequence No. 8]

Information Collection; Report of Shipment

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, and the Office of Management and Budget (OMB) regulations, DoD, GSA, and NASA invite the public to comment on a revision and renewal concerning report of shipment. DoD, GSA, and NASA invite comments on: Whether the proposed collection of information is necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. OMB has approved this information collection for use through October 31, 2019. DoD, GSA, and NASA propose that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD, GSA, and NASA will consider all comments received by October 25, 2019.

ADDRESSES: DoD, GSA, and NASA invite interested persons to submit comments on this collection by either of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. Go to *http://www.regulations.gov* and follow the instructions on the site.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405. ATTN: Lois Mandell/IC 9000–0056, Report of Shipment.

Instructions: All items submitted must cite Information Collection 9000–0056, Report of Shipment. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two-to-three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, at telephone 202–501–1448, or *curtis.glover@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000–0056, Report of Shipment.

B. Need and Uses

This clearance covers the information that contractors must submit to comply with the Federal Acquisition Regulation requirement at 52.247–68, Report of Shipment (REPSHIP). This clause requires contractors to send an advanced notice to the consignee transportation office at least twenty-four hours before the arrival of a shipment, unless otherwise directed by a contracting officer.

Generally, this notification is required only for classified material; sensitive, controlled, and certain other protected material; explosives, and some other hazardous materials; selected shipments requiring movement control; or minimum carload or truckload shipments. It facilitates arrangements for transportation control, labor, space, and use of materials handling equipment at destination. Also, timely receipt of notices by the consignee transportation office precludes the incurring of demurrage and vehicle detention charges.

C. Annual Burden

Respondents: 113.
Total Annual Responses: 8,023.
Total Burden Hours: 1,340.
Obtaining Copies: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0056, Report of Shipment, in all correspondence.

Dated: August 21, 2019.

Janet Fry,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2019–18314 Filed 8–23–19; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–19–19VJ]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled, The Childcare Survey of Activity and Wellness (C–SAW) Pilot Study to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on April 2, 2019 to obtain comments from the public and affected agencies. CDC received two public comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(d) 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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

The Childcare Survey of Activity and Wellness (C–SAW) Pilot Study—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC) works to promote optimal nutrition, physical activity, and wellness in early care and education (ECE) facilities for children 0–5 years of age. Data collected from this pilot survey will be used to understand the current practices of ECE centers in a representative sample in four states. The survey will also be used to inform the development of a potential national surveillance system.

A sample of approximately 1,266 ECE centers across four states will be selected to participate in this one-time data collection effort. However, it is estimated that approximately 10% of the original sample will be out of business or otherwise ineligible, yielding an actual sample of 1,140 ECEs to be recruited. Each center will receive a recruitment letter introducing the survey, and instructions for completing the survey. It is anticipated that most responses will be submitted through the web. However, paper surveys will be available upon request. It is also anticipated that the response rate will be approximately 55% based on a review of recent surveys of child care centers conducted by the Federal government. Thus, we anticipate the number of completed surveys to be 627. CDC requests approval for an estimated 409 Burden Hours. Participation in this study is completely voluntary and there are no costs to the respondent other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
ECE Director or Administrator	Recruitment Letter	1,140	1	5/60
ECE Director or Administrator	Web/Mail Survey	627	1	30/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2019–18279 Filed 8–23–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10065/10066]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by September 25, 2019.

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806 *OR* Email: *OIRA_s submission@omb.eop.gov.*

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

1. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

2. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Hospital Notices: IM/DND; *Use* The purpose of the IM is to inform beneficiaries and enrollees of their rights as hospital inpatients and how to request a discharge appeal by a Quality Improvement Organization (QIO) and how to file a request. For all Medicare beneficiaries, hospitals must deliver valid, written notice of a beneficiary's rights as a hospital inpatient, including discharge appeal rights. The hospital must use a standardized notice, as specified by CMS. This is satisfied by IM delivery.

Consistent with 42 CFR 405.1205 for Original Medicare and 422.620 for Medicare health plans, hospitals must

provide the initial IM within 2 calendar days of admission. A follow-up copy of the signed IM is given no more than 2 calendar days before discharge. The follow-up copy is not required if the first IM is provided within 2 calendar days of discharge. In accordance with 42 CFR 405.1206 for Original Medicare and 422.622 for Medicare health plans, if a beneficiary/enrollee appeals the discharge decision, the beneficiary/enrollee and the QIO must receive a detailed explanation of the reasons services should end. This detailed explanation is provided to the beneficiary/enrollee using the DND, the second notice included in this renewal package. *Form Number:* CMS–10065/10066 (OMB control number: 0938–1019); *Frequency:* Yearly; *Affected Public:* Private Sector (Business or other for-profits, Not-for-Profit Institutions); *Number of Respondents:* 6,123; *Total Annual Responses:* 17,742,803; *Total Annual Hours:* 2,990,720. (For policy questions regarding this collection contact Janet Miller at *Janet.Miller@cms.hhs.gov.*)

Dated: August 20, 2019.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2019–18273 Filed 8–23–19; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Information Collection Request Title: HIV Quality Measures (HIVQM) Module, OMB No. 0906–0022—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received no later than September 25, 2019.

ADDRESSES: Submit your comments, including the ICR title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: HIV Quality Measures Module, OMB No. 0906–0022—Revision.

Abstract: HRSA Ryan White HIV/AIDS Program (RWHAP) funds and coordinates with cities, states, and local clinics/community-based organizations to deliver efficient and effective HIV care, treatment, and support to low income people living with HIV. Nearly two-thirds of clients (patients) live at or below 100 percent of the federal poverty level and approximately three-quarters of RWHAP clients are racial/ethnic minorities. Since 1990, the RWHAP has developed a comprehensive system of safety net providers who deliver high quality direct health care and support services to over half a million people living with HIV—more than 50 percent of all people living with diagnosed HIV in the United States.

All parts of the RWHAP must follow the legislative requirements for the establishment of clinical quality management programs to assess their HIV services according to the most recent HHS guidelines and to develop strategies to improve access to quality HIV services. The HIVQM Module supports recipients and sub recipients in their clinical quality management, performance measurement, service delivery, and monitoring of client health outcomes; and supports the requirement imposed by the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards that recipients relate financial data to performance accomplishments of their federal awards. 45 CFR 75.301. The module is accessible via the Ryan White Services Report, an existing online portal that RWHAP recipients already use for required data collection of their services. While the use of the module is voluntary for RWHAP recipients, its use is strongly encouraged.

The HRSA performance measures are comprised of the following categories: (1) Core medical services, (2) all ages, (3) adolescent/adult, (4) children with HIV, (5) HIV-exposed children, (6) medical case management, (7) oral health, (8) AIDS Drug Assistance Program, and (9) systems level performance measures. Recipients can choose the performance measures they want to monitor and may enter data on their measures into the module up to four times a year and then generate reports to assess their performance. Recipients may also compare their performance against other recipients regionally and nationally.

A 60-day notice was published in the **Federal Register** on March 14, 2019, vol. 84, No. 50; pp. 9362–63. There were four public comments.

Need and Proposed Use of the Information: The HIVQM Module provides recipients an easy-to-use and structured platform to voluntarily and continually monitor their performance. The main purpose for the module is to help recipients set goals and monitor performance measures and quality improvement projects. For this revised ICR, HRSA is proposing to allow recipients the option to enter data for specific populations for a subset of performance measures based on age, gender, race, ethnicity, and specific risk factors, which will allow for target services and quality improvement activities to people most at need. In addition, recipients will be able to generate reports of performance measures, review them stratified by the recipients or their service providers, and compare to results at the state, regional, and national levels. HRSA is proposing these enhancements to increase the functionality and overall usability of the HIVQM Module.

The HIVQM Module was piloted for this revision request in June 2019. Recipients or sub recipients, who submitted data for more than two reporting periods in the last year and represented the use of various data systems, submitted feedback on the new data stratification feature. Their feedback included questions about: (1) How the data stratification feature in the HIVQM Module would differ from and integrate with CAREWare (CW) reporting; and (2) the availability of the template for the data stratification feature. HRSA's responses included describing the interface between CW and the HIVQM Module, explaining how reports will be produced and further explaining why the HIVQM Module will be a useful tool in comparing state, regional, and national performance measure data among recipients/sub recipients who use the HIVQM Module.

Likely Respondents: HRSA RWHAP Part A, Part B, Part C, and Part D

recipients and their service providers and the AIDS Drug Assistance Program recipients.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
HIVQM Module	2,316	4	9,264	6	55,584
Total	2,316		9,264		55,584

Maria G. Button,

Director, Division of the Executive Secretariat.

[FR Doc. 2019–18332 Filed 8–23–19; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HRSA is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (the Program), as required by Section 2112(b)(2) of the Public Health Service (PHS) Act, as amended. While the Secretary of HHS is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program in general, contact Lisa L. Reyes, Clerk of Court, United States Court of Federal Claims, 717 Madison Place NW, Washington, DC 20005, (202) 357–6400. For information on HRSA's role in the Program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 08N146B, Rockville, Maryland 20857; (301) 443–6593, or visit our website at: *http://www.hrsa.gov/vaccinecompensation/index.html.*

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of Title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.,* provides that those seeking compensation are to file a petition with the United States Court of Federal Claims and to serve a copy of the petition to the Secretary of HHS, who is named as the respondent in each proceeding. The Secretary has delegated this responsibility under the Program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at 42 CFR 100.3. This Table lists for each covered childhood vaccine the conditions that may lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested outside the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that ''[w]ithin 30 days after the Secretary receives service of any petition filed under section 2111 the Secretary shall publish notice of such petition in the **Federal Register**.'' Set forth below is a list of petitions received by HRSA on July 1, 2019, through July 31, 2019. This list provides the name of petitioner, city and state of vaccination (if unknown then city and state of person or attorney filing claim), and case number. In cases where the Court has redacted the name of a petitioner and/or the case number, the list reflects such redaction. Section 2112(b)(2) also provides that the special master ''shall afford all interested persons an opportunity to submit relevant, written information'' relating to the following:

1. The existence of evidence ''that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition,'' and

2. Any allegation in a petition that the petitioner either:

a. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table but which was caused by'' one of the vaccines referred to in the Table, or

b. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine'' referred to in the Table.

In accordance with Section 2112(b)(2), all interested persons may submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the United States Court of Federal Claims at the address listed above (under the heading ''For Further Information Contact''), with a copy to HRSA addressed to Director, Division of Injury Compensation Programs, Healthcare Systems Bureau,

5600 Fishers Lane, 08N146B, Rockville, Maryland 20857. The Court's caption (Petitioner's Name v. Secretary of HHS) and the docket number assigned to the petition should be used as the caption for the written submission. Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

Dated: August 20, 2019.

Thomas J. Engels,

Acting Administrator.

List of Petitions Filed

1. Jeremy Batten, Dayton, Nevada, Court of Federal Claims No: 19–0950V
2. Craig Siefker, Tallahassee, Florida, Court of Federal Claims No: 19–0951V
3. Donna Bell, Wakefield, Rhode Island, Court of Federal Claims No: 19–0952V
4. Philip Meyer, Bloomington, Illinois, Court of Federal Claims No: 19–0955V
5. Sally Irwin, Wailuku, Hawaii, Court of Federal Claims No: 19–0956V
6. Philip Crowley, Natick, Massachusetts, Court of Federal Claims No: 19–0957V
7. Patricia S. Tiedeman, Evans, Georgia, Court of Federal Claims No: 19–0959V
8. Wilian Machado, Orlando, Florida, Court of Federal Claims No: 19–0960V
9. Edward Taylor, Fort Worth, Texas, Court of Federal Claims No: 19–0961V
10. Paul Hopper, Sandy, Utah, Court of Federal Claims No: 19–0962V
11. Cynthia Sames, San Diego, California, Court of Federal Claims No: 19–0963V
12. Jacqueline Rice-McKenzie, Pearland, Texas, Court of Federal Claims No: 19–0964V
13. Gerald Granstaff, Perry, Georgia, Court of Federal Claims No: 19–0965V
14. Charles Dechene, Dallas, Texas, Court of Federal Claims No: 19–0968V
15. Colleen Block, St. Louis, Missouri, Court of Federal Claims No: 19–0969V
16. Tiffany Adams on behalf of K.A. Stanford, Kentucky, Court of Federal Claims No: 19–0970V
17. Patrick Potter, San Jose, California, Court of Federal Claims No: 19–0971V
18. Janeen Brady and Michael Brady on behalf of S.B., New York, New York, Court of Federal Claims No: 19–0973V
19. Jennifer Panattoni, Park Ridge, Illinois, Court of Federal Claims No: 19–0975V
20. Elisha C. Navarro on behalf of D.A.N.B., San Diego, California, Court of Federal Claims No: 19–0976V
21. Amy Phillips-Bell, St. Louis, Missouri Court of Federal Claims No: 19–0977V
22. John J. Samluk, Wilmington, Delaware, Court of Federal Claims No: 19–0979V
23. Lisa Day, Phoenix, Arizona Court of Federal Claims No: 19–0980V
24. Rebecca Cary, Eureka, California, Court of Federal Claims No: 19–0981V
25. Nicole W. Pelly, Coeur d'Alene, Idaho Court of Federal Claims No: 19–0982V
26. Jeanne M. Miske, Oakdale, Minnesota, Court of Federal Claims No: 19–0983V
27. Lynn Jones, Calvert City, Kentucky Court of Federal Claims No: 19–0984V
28. Heather Miller on behalf of L.M., Kansas City, Missouri, Court of Federal Claims No: 19–0985V
29. Lauretta Prague on behalf of Alexander Prague, Stony Brook, New York, Court of Federal Claims No: 19–0986V
30. Holley Hartley, Plano, Texas, Court of Federal Claims No: 19–0990V
31. Mary Katherine Scallion, Marietta, Georgia, Court of Federal Claims No: 19–0992V
32. Gretchen Corey, Glendale, Arizona, Court of Federal Claims No: 19–0993V
33. Christine Larsen, St. Charles, Illinois, Court of Federal Claims No: 19–0995V
34. Maureen Fagan, South Weymouth, Massachusetts, Court of Federal Claims No: 19–0997V
35. Eleanor Gray, Scottsdale, Arizona, Court of Federal Claims No: 19–0998V
36. Darla Neeley, Sacramento, California, Court of Federal Claims No: 19–0999V
37. Sarina Vito, Washington, District of Columbia, Court of Federal Claims No: 19–1001V
38. Gretchen Eaton, Washington, District of Columbia, Court of Federal Claims No: 19–1002V
39. Jennifer Hunt, Statesville, North Carolina, Court of Federal Claims No: 19–1003V
40. Jason Rosenberg, San Francisco, California, Court of Federal Claims No: 19–1004V
41. Michael King, Columbia, South Carolina, Court of Federal Claims No: 19–1005V
42. William Gregory Schilder, Phoenix, Arizona, Court of Federal Claims No: 19–1006V
43. Stacia Parnell, Dayton, Tennessee, Court of Federal Claims No: 19–1009V
44. Kathy Wimmler, Denver, Colorado, Court of Federal Claims No: 19–1010V
45. Sandra Botta, Beverly, Massachusetts, Court of Federal Claims No: 19–1011V
46. Kathleen Budde, Florence, South Carolina, Court of Federal Claims No: 19–1012V
47. Gladys Cody, Coeur d'Alene, Idaho, Court of Federal Claims No: 19–1013V
48. Scott A. Hoerth, Middleton, Wisconsin, Court of Federal Claims No: 19–1016V
49. Sherry Leighton-Herrmann, Depoe Bay, Oregon, Court of Federal Claims No: 19–1018V
50. Carolyn McCormick, York, South Carolina, Court of Federal Claims No: 19–1023V
51. Frederick D. McBeth, Hedrick, Iowa, Court of Federal Claims No: 19–1025V
52. Patrick McRae, Craigsville, Virginia, Court of Federal Claims No: 19–1026V
53. Hope Paider on behalf of E.O., De Pere, Wisconsin, Court of Federal Claims No: 19–1027V
54. Natalie Litrun, Pittsburgh, Pennsylvania, Court of Federal Claims No: 19–1029V
55. Javier Jimenez-Rosas, El Cajon, California, Court of Federal Claims No: 19–1030V
56. Bilinda Anderson, Nottingham, Maryland, Court of Federal Claims No: 19–1031V
57. Evonne Callaghan on behalf of K.B., Barbourville, Kentucky, Court of Federal Claims No: 19–1032V
58. Keanu Mitchell, Queens, New York, Court of Federal Claims No: 19–1034V
59. James L. Johnson, Sr., Turbeville, South Carolina, Court of Federal Claims No: 19–1035V
60. Bettina Lynn Sinicki and Timothy M. Sinicki on behalf of A.S., New York, New York, Court of Federal Claims No: 19–1037V
61. Margrit Nigro, Hamburg, New Jersey, Court of Federal Claims No: 19–1039V
62. Giovanni Policicchio, Birmingham, Alabama, Court of Federal Claims No: 19–1040V
63. Renee Brockman, Kennewick, Washington, Court of Federal Claims No: 19–1041V
64. David Epperson, Lexington, Kentucky, Court of Federal Claims No: 19–1042V

65. Karen Hoisington, Littleton, Colorado, Court of Federal Claims No: 19–1043V
66. Lee Ann Wellerritter, Washington, District of Columbia, Court of Federal Claims No: 19–1044V
67. Charles Silvestri, Port Jefferson, New York, Court of Federal Claims No: 19–1045V
68. Gil Hong on behalf of E.K., Englewood Cliffs, New Jersey, Court of Federal Claims No: 19–1046V
69. Darrel Laurette, Omaha, Nebraska, Court of Federal Claims No: 19–1047V
70. Lauretta Allner, Sioux City, Iowa, Court of Federal Claims No: 19–1048V
71. Catherine Price, Union Grove, Wisconsin, Court of Federal Claims No: 19–1049V
72. Isabella Acosta, Orchard Park, New York, Court of Federal Claims No: 19–1050V
73. Barbara Turner on behalf of Harry Turner, Washington, District of Columbia, Court of Federal Claims No: 19–1051V
74. Ashley N. Israelsen, Lafayette, Colorado, Court of Federal Claims No: 19–1052V
75. Karen Yaeck, New Bern, North Carolina, Court of Federal Claims No: 19–1053V
76. Deirdre Maguire, Lebanon, New Hampshire, Court of Federal Claims No: 19–1054V
77. Susan Fausnaugh, Wadsworth, Ohio, Court of Federal Claims No: 19–1056V
78. Joshua Tell, Bloomington, Illinois, Court of Federal Claims No: 19–1057V
79. Misahel Avila, Duarte, California, Court of Federal Claims No: 19–1058V
80. Marilyn Merkin, San Francisco, California, Court of Federal Claims No: 19–1061V
81. Andrew Janquitto, Towson, Maryland, Court of Federal Claims No: 19–1062V
82. Eric Scott, Juneau, Alaska, Court of Federal Claims No: 19–1066V
83. Courtney Peavey, Houston, Texas, Court of Federal Claims No: 19–1068V
84. Lisa Kaiser, Huron, South Dakota, Court of Federal Claims No: 19–1069V
85. Douglas Bell, Chapel Hill, North Carolina, Court of Federal Claims No: 19–1070V
86. Debra Kasper, St. Cloud, Minnesota, Court of Federal Claims No: 19–1071V
87. Virgil Topham, Washington, District of Columbia, Court of Federal Claims No: 19–1072V
88. Lloyd Scott, Washington, District of Columbia, Court of Federal Claims No: 19–1073V
89. Lorri Palka, Washington, District of Columbia, Court of Federal Claims No: 19–1074V
90. Brianna Loughry, Washington, District of Columbia, Court of Federal Claims No: 19–1075V
91. Andre LeBlanc, Cumberland, Rhode Island, Court of Federal Claims No: 19–1076V
92. Angeline Fletcher, Dallas, Texas, Court of Federal Claims No: 19–1079V
93. Jennifer Valencia, Winterset, Iowa, Court of Federal Claims No: 19–1080V
94. Brian Behrens, Washington, District of Columbia, Court of Federal Claims No: 19–1081V
95. Shana Burch, Gainesville, Florida, Court of Federal Claims No: 19–1084V
96. Heather Marie Lambert and John Richard Wright on behalf of G.W. Henderson, Kentucky, Court of Federal Claims No: 19–1087V
97. Chester Bircheat, Washington, District of Columbia, Court of Federal Claims No: 19–1088V
98. Maria Diminno on behalf of Pasquale Diminno, Deceased, Washington, District of Columbia, Court of Federal Claims No: 19–1089V
99. Shirley Ozio, Washington, District of Columbia, Court of Federal Claims No: 19–1090V
100. Careen Lomago on behalf of D.L. Washington, Pennsylvania, Court of Federal Claims No: 19–1092V
101. Nancy Blandford, Tucson, Arizona, Court of Federal Claims No: 19–1096V
102. Basem Alsaadeh, San Bernardino, California, Court of Federal Claims No: 19–1097V
103. Richard P. Johnson, Ellisville, Missouri, Court of Federal Claims No: 19–1098V
104. Anthony Norman, Milwaukee, Wisconsin, Court of Federal Claims No: 19–1099V
105. Barbara Hill, Amherst, New York, Court of Federal Claims No: 19–1100V
106. Brenda McBride, Miami, Florida, Court of Federal Claims No: 19–1101V
107. Peter D. Burke, Rochester, New York, Court of Federal Claims No: 19–1102V
108. Bridget Morrison-Langehough, Colchester, Vermont, Court of Federal Claims No: 19–1103V
109. Edward Sand, Fort Morgan, Colorado, Court of Federal Claims No: 19–1104V
110. Jeremey Morgan, North Las Vegas, Nevada, Court of Federal Claims No: 19–1105V
111. Kimberly Hartman, Manning, South Carolina, Court of Federal Claims No: 19–1106V
112. Sandra Boyd, Ojai, California, Court of Federal Claims No: 19–1107V
113. Scott Reynolds, Tawas City, Michigan, Court of Federal Claims No: 19–1108V
114. Stacy Smith, Kahoka, Missouri, Court of Federal Claims No: 19–1109V
115. Victoria Edens, Indianapolis, Indiana, Court of Federal Claims No: 19–1110V
116. Deborah Kelley, Cleves, Ohio, Court of Federal Claims No: 19–1111V
117. Nicole Harder on behalf of J.A.H., Richmond, Virginia, Court of Federal Claims No: 19–1114V
118. Evon Johnson, Westchester, Illinois, Court of Federal Claims No: 19–1117V
119. Susan Watson, Thousand Oaks, California, Court of Federal Claims No: 19–1118V

[FR Doc. 2019–18304 Filed 8–23–19; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request: Rural Health Network Development Planning Performance Improvement and Measurement System Database, OMB No. 0915–0384—Extension

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR must be received no later than October 25, 2019.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA

Information Collection Clearance Officer, Room 14N136B, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the ICR title for reference.

Information Collection Request Title: Rural Health Network Development Planning Performance Improvement and Measurement System Database, OMB No. 0915–0384—Extension.

Abstract: The purpose of the Rural Health Network Development Planning (Network Planning) Program is to assist in the development of an integrated health care network specifically for entities that do not have a history of formal collaborative efforts. Health care networks can be an effective strategy to help smaller rural health care providers and health care service organizations align resources, achieve economies of scale and efficiency, and address challenges more effectively as a group than as single providers. This program promotes the planning and development of healthcare networks in order to achieve efficiencies; expand access to, coordinate, and improve the quality of essential health care services; and strengthen the rural health care system as a whole.

The goals of the Network Planning Program are centered around approaches that will aid providers in better serving their communities given the changes taking place in health care, as providers move from focusing on the volume of services to focusing on the value of services. In addition to establishing and improving local capacity and coordination of care, the Network Planning Program brings together key parts of a rural health care delivery system, particularly those entities that may not have collaborated in the past under a formal relationship. The program supports one year of planning with the primary goals of helping networks create a foundation for their infrastructure and focusing member efforts to address important regional or local community health needs.

Need and Proposed Use of the Information: Performance measures for the Network Planning Program serve the purpose of quantifying awardee-level data that conveys the successes and challenges associated with the grant award. These measures and aggregate data substantiate and inform the focus and objectives of the grant program. The approved measures encompass the following principal topic areas: Network infrastructure, network collaboration, sustainability, and network assessment.

Likely Respondents: Rural Health Network Development Planning Program award recipients.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Rural Health Network Development Planning Program Performance Improvement Measurement System	21	1	21	1	21
Total	21		21		21

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Division of the Executive Secretariat.

[FR Doc. 2019–18331 Filed 8–23–19; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Research Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Findings of research misconduct have been made against Dr. Rahul Agrawal (Respondent), former visiting fellow at the Center for Cancer Research, Laboratory of Pathology, Cancer Molecular Pathology Section, National Cancer Institute (NCI), National Institutes of Health (NIH). Dr. Agrawal engaged in research misconduct in research supported by the Intramural Research Program of NCI, NIH. The administrative actions, including supervision for a period of one (1) year, were implemented beginning on August 8, 2019, and are detailed below.

FOR FURTHER INFORMATION CONTACT: Wanda K. Jones, Dr.P.H., Acting Director, Deputy Director, Office of Research Integrity, 1101 Wootton Parkway, Suite 750, Rockville, MD 20852, (240) 453–8200.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Office of Research Integrity (ORI) has taken final action in the following case:

Dr. Rahul Agrawal, National Institutes of Health: Based on Respondent's admission, an assessment conducted by NIH, and additional analysis conducted by ORI in its oversight review, ORI found that Dr. Rahul Agrawal, former visiting fellow at the Center for Cancer Research, Laboratory of Pathology, Cancer Molecular Pathology Section,

NCI, NIH, engaged in research misconduct in research supported by the Intramural Research Program of NCI, NIH.

ORI found that Respondent engaged in research misconduct by intentionally, knowingly, and/or recklessly falsifying and/or fabricating data in the unpublished research record by the alteration, reuse, and/or relabeling of quantitative real-time polymerase chain reaction (qRT–PCR) data and colony forming cell (CFC) and focus formation (FF) assay images to represent experiments that measured microRNA expression levels and the effect of long intergenic non-protein coding (LINC) RNAs in human cancer cell lines that were not conducted.

Specifically, ORI found that Respondent knowingly, intentionally, and/or recklessly falsified and/or fabricated:

- qRT–PCR data in fifty-nine (59) Excel files by:

—Conceiving Cycle Threshold (CT) values and PCR machine run identification numbers and run dates for fifty-nine (59) experiments that were not conducted

—inserting falsified and/or fabricated CT values in fifty-four (54) files that originated from one (1) Excel template with a single file creation date to represent distinct experimental runs with different experimental dates in exported Excel files from the PCR machine

—utilizing an earlier PCR machine calibration date in four (4) Excel files to represent experiments completed at a later date

- CFC and FF assay images in four (4) PowerPoint files by:

—Representing eight (8) images of CFC and FF assays in cell culture plates as the overexpression of LINC00379 or LINC00380 in human alveolar rhabdomyosarcoma RD and Rh41 cells when the cultured cells did not overexpress the specific LINC RNA

Dr. Agrawal entered into a Voluntary Settlement Agreement (Agreement) and voluntarily agreed:

(1) To have his research supervised for a period of one (1) year beginning on August 8, 2019; Respondent agreed that prior to the submission of an application for U.S. Public Health Service (PHS) support for a research project on which Respondent's participation is proposed and prior to Respondent's participation in any capacity on PHS-supported research, Respondent shall ensure that a plan for supervision of Respondent's duties is submitted to ORI for approval; the supervision plan must be designed to ensure the scientific integrity of Respondent's research contribution; Respondent agreed that he shall not participate in any PHS-supported research until such a supervision plan is submitted to and approved by ORI; Respondent agreed to maintain responsibility for compliance with the agreed upon supervision plan;

(2) that the requirements for Respondent's supervision plan are as follows:

i. A committee of 2–3 senior faculty members at the institution who are familiar with Respondent's field of research, but not including Respondent's supervisor or collaborators, will provide oversight and guidance for one (1) year beginning on August 8, 2019; the committee will review primary data from Respondent's laboratory on a quarterly basis and submit a report to ORI at six (6) month intervals setting forth the committee meeting dates, Respondent's compliance with appropriate research standards, and confirming the integrity of Respondent's research; and

ii. the committee will conduct an advance review of any PHS grant applications (including supplements, resubmissions, etc.), manuscripts reporting PHS-funded research submitted for publication, and abstracts; the review will include a discussion with Respondent of the primary data represented in those documents and will include a certification to ORI that the data presented in the proposed application/publication is supported by the research record;

(3) that for a period of one (1) year beginning on August 8, 2019, any institution employing him shall submit, in conjunction with each application for PHS funds, or report, manuscript, or abstract involving PHS-supported research in which Respondent is involved, a certification to ORI that the data provided by Respondent are based on actual experiments or are otherwise legitimately derived and that the data, procedures, and methodology are accurately reported in the application, report, manuscript, or abstract;

(4) that if no supervisory plan is provided to ORI, Respondent shall provide certification to ORI at the conclusion of the supervision period that he has not engaged in, applied for, or had his name included on any application, proposal, or other request for PHS funds without prior notification to ORI; and

(5) to exclude himself from serving in any advisory capacity to PHS including, but not limited to, service on any PHS advisory committee, board, and/or peer review committee, or as a consultant for a period of one (1) year beginning on August 8, 2019.

Wanda K. Jones,

Acting Director, Deputy Director, Office of Research Integrity.

[FR Doc. 2019–18305 Filed 8–23–19; 8:45 am]

BILLING CODE 4150–31–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; S10 Programs for Shared Instrumentation Grant (SIG) and Shared Instrumentation for Animal Research (SIFAR) Grant.

Date: September 25–26, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Jan Li, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, Bethesda, MD 20892, 301.402.9607, *Jan.Li@nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group Cancer Biomarkers Study Section.

Date: September 26–27, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard Seattle Pioneer Square, 612 2nd Ave, Seattle, WA 98104.

Contact Person: Lawrence Ka-Yun Ng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7804, Bethesda, MD 20892, 301–357–9318, *ngkl@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Neurotransporters, Receptors, and Calcium Signaling Study Section.

Date: September 26, 2019.

Time: 8:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications

Place: Hotel Palomar, 2121 P Street NW, Washington, DC 20037.

Contact Person: Peter B Guthrie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4182, MSC 7850, Bethesda, MD 20892, (301) 435–1239, *guthriep@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Early Phase Clinical Trials in Imaging and Image-Guided Interventions (R01 Clinical Trial Required).

Date: September 27, 2019.

Time: 11:00 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: Yuanna Cheng, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7814, Bethesda, MD 20892, (301) 435–1195, *Chengy5@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: August 20, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–18261 Filed 8–23–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Listing of Members of the National Institutes of Health's Senior Executive Service 2019 Performance Review Board (PRB)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Institutes of Health (NIH) announces the persons who will serve on the National Institutes of Health's Senior Executive Service 2019 Performance Review Board.

FOR FURTHER INFORMATION CONTACT: For further information about the NIH Performance Review Board, contact Mr. Kha Nguyen, Director, Division of Senior and Scientific Executive Management, Office of Human Resources, National Institutes of Health, Building 2, Room 5W07, Bethesda, Maryland 20892, telephone 301–451–3231 (not a toll-free number), email *kha.nguyen@nih.gov.*

SUPPLEMENTARY INFORMATION: This action is being taken in accordance with Title 5, U.S.C., Section 4314(c)(4), which requires that members of performance review boards be appointed in a manner to ensure consistency, stability, and objectivity in performance appraisals and requires that notice of the appointment of an individual to serve as a member be published in the **Federal Register**.

The following persons will serve on the NIH Performance Review Board, which oversees the evaluation of performance appraisals of NIH Senior Executive Service (SES) members:

Alfred Johnson, Chair
Michael Gottesman
Ann Huston
Michael Lauer
Sally Lee
Ellen Rolfes
Patrick Shirdon
Lawrence Tabak
Daniel Wheeland

Dated: August 19, 2019.

Francis S. Collins,

Director, National Institutes of Health.

[FR Doc. 2019–18296 Filed 8–23–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[Docket No. USCBP–2019–0018]

Extension of Comment Period: Request for Public Comments Regarding the Construction of Pedestrian Barrier Within Certain Areas in the Rio Grande Valley, Texas

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Request for comments regarding the location of proposed pedestrian barrier; notice of extension of comment period.

SUMMARY: This document provides an additional 30 days for interested parties to submit comments regarding U.S. Customs and Border Protection's (CBP) proposal to construct primary pedestrian barrier in certain areas in the Rio Grande Valley (RGV) in Starr County, Texas, including within the cities of Roma, Escobares, La Grulla, Rio Grande City, and the census-designated place of Salineno, Texas (the Affected Areas). CBP published a Request for Public Comments on its proposal to locate and construct primary pedestrian barrier in the Affected Areas as required by section 232(b) of the Consolidated Appropriations Act of 2019 in the **Federal Register** on June 27, 2019, with comments due on or before August 26, 2019. CBP also requested comments on potential impacts to the environment, historical preservation, culture, quality of life, and commerce, including socioeconomic impacts from the construction of primary pedestrian barrier in the Affected Areas. In the interest of receiving well thought-out and developed comments from stakeholders, CBP is extending the comment period to September 25, 2019.

DATES: To ensure consideration, comments must be received on or before September 25, 2019.

ADDRESSES: Comments may be submitted electronically through the Federal eRulemaking Portal: *http://www.regulations.gov.* Search docket number USCBP–2019–0018 and follow the instructions for sending comments.

Instructions: All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. For detailed instructions on sending comments, see the ''Request for Public Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to docket number USCBP–2019–0018 to read the June 27, 2019 **Federal Register** notice, background documents and comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Paul Enriquez, Acquisition, Real Estate, and Environmental Director, Border Wall Program Management Office, U.S. Border Patrol at (949) 643–6365 or visit CBP's website: *http://www.cbp.gov/about/environmental-cultural-stewardship/nepa-documents/docs-review.*

SUPPLEMENTARY INFORMATION:

Public Comments

All interested parties are invited to participate in the comment process. U.S. Customs and Border Protection (CBP) invites agencies, organizations and the general public to provide input on the location of the pedestrian barrier and issues related to the environment, historical preservation, culture, quality of life, and commerce, including socioeconomic impacts.

All interested parties are encouraged to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If you cannot submit your material by using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION** contact section of this document for alternative instructions. When submitting

comments, please include your name and contact information. Comments received in response to this solicitation, including names and contact information of those who comment, will be part of the public record for this proposed action. Documents mentioned in this notice, and all public comments, will be available in our online docket at *http://www.regulations.gov,* and can be viewed by following the website's instructions. Additionally, if you visit the online docket and sign up for email alerts, you will be notified when comments are posted.

After the public comment period is complete and CBP has reviewed the results, a response to the comments received will be published in the **Federal Register** and made available on CBP's website: *http://www.cbp.gov/about/environmental-cultural-stewardship/nepa-documents/docs-review.*

Background

On June 27, 2019, CBP published a notice in the **Federal Register** (84 FR 30745), requesting public comments regarding the construction of pedestrian barrier within the Rio Grande Valley (RGV) in Starr County, Texas, including within the cities of Roma, Escobares, La Grulla, Rio Grande City, and the census-designated place of Salineno, Texas (the Affected Areas). CBP also requested comments on potential impacts to the environment, historical preservation, culture, quality of life, and commerce, including socioeconomic impacts from the construction of primary pedestrian barrier in the Affected Areas. That document requested that comments be received no later than August 26, 2019.

Extension of Comment Period

CBP believes that it is very important to receive well thought-out and developed comments with respect to the construction of pedestrian barrier within the Affected Areas. Therefore, CBP has decided to allow additional time for the public to submit comments on the proposed action. Accordingly, the comment period is extended to September 25, 2019, and comments must be received on or before that date.

Dated: August 20, 2019.

Kelly C. Good,

Deputy Executive Director, Program Management Office Directorate, U.S. Border Patrol, U.S. Customs and Border Protection.

[FR Doc. 2019–18306 Filed 8–23–19; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0053]

Agency Information Collection Activities: Accreditation of Commercial Testing Laboratories and Approval of Commercial Gaugers

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted no later than September 25, 2019 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/*.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (84 FR 22504) on May 17, 2019, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Accreditation of Commercial Testing Laboratories and Approval of Commercial Gaugers.

OMB Number: 1651–0053.

Form Number: Form 6478.

Abstract: Commercial laboratories seeking accreditation or approval must provide the information specified in 19 CFR 151.12 to Customs and Border Protection (CBP), and Commercial Gaugers seeking CBP approval must provide the information specified under 19 CFR 151.13. This information may be submitted on CBP Form 6478. After the initial approval and/or accreditation, a private company may ''extend'' its approval and/or accreditation to add facilities by submitting a formal written request to CBP. This application process is authorized by Section 613 of Public Law 103–182 (NAFTA Implementation Act), codified at 19 U.S.C. 1499(b), which directs CBP to establish a procedure to accredit privately owned testing laboratories. The information collected is used by CBP in deciding whether to approve individuals or businesses desiring to measure bulk products or to analyze importations.

Instructions for completing these applications are accessible at: *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.* CBP Form 6478 is accessible at: *https://www.cbp.gov/newsroom/publications/forms?title=6478.*

Current Actions: This submission is being made to extend the expiration date with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Applications for Commercial Testing and Approval of Commercial Gaugers

Estimated Number of Annual Respondents: 8.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Responses: 8.

Estimated Time per Response: 1.25 hours.

Estimated Total Annual Burden Hours: 10.

Record Keeping Associated With Applications for Commercial Testing and Approval of Commercial Gaugers

Estimated Number of Respondents: 180.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Responses: 180.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 180.

Dated: August 21, 2019.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2019–18277 Filed 8–23–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0023]

Agency Information Collection Activities: Request for Information

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than September 25, 2019) to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via email to *dhsdeskofficer@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov*. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (84 FR 22505) on May 17, 2019, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Request for Information.

OMB Number: 1651–0023.

Form Number: CBP Form 28.

Abstract: Under 19 U.S.C. 1500 and 1401a, U.S. Customs and Border Protection (CBP) is responsible for appraising imported merchandise by ascertaining its value; classifying the merchandise under the tariff schedule; and assessing a rate and amount of duty to be paid. On occasions when the invoice or other documentation does not provide sufficient information for appraisement or classification, CBP may request additional information through the use of CBP Form 28, *Request for Information.* This form is sent by CBP personnel to importers, or their agents, requesting additional information. CBP Form 28 is provided for by 19 CFR 151.11. A copy of this form and instructions are available at *https://www.cbp.gov/newsroom/publications/forms?title=28.*

Current Actions: This submission is being made to extend the expiration date with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 60,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 60,000.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 120,000.

Dated: August 21, 2019.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2019–18278 Filed 8–23–19; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLES962000 L14400000 BJ0000 18X]

Notice of Filing of Plats of Surveys; Eastern States

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Official Filing.

SUMMARY: The plats of surveys of the following described lands are scheduled to be officially filed in the Bureau of land Management (BLM), Eastern States Office, Washington, DC, 30 days from the date of this publication. The surveys, executed at the request of the identified agencies is required for the management of these lands.

DATES: Unless there are protests of this action, the filing of the plat described in this notice will happen on September 25, 2019.

ADDRESSES: Written notices protesting any of these surveys must be sent to the State Director, BLM Eastern States, Suite 950, 20 M Street SE, Washington, DC 20003.

FOR FURTHER INFORMATION CONTACT: Kenneth D. Roy, Chief Cadastral Surveyor for Eastern States; (202) 912–7756; email: *Kroy@blm.gov;* or U.S. Postal Service: BLM–ES, 20 M Street SE, Suite 950, Washington, DC 20003. Attn: Cadastral Survey. Persons who use a telecommunications device for the deaf may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The service is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The dependent resurvey and corrective dependent resurvey of portions of the boundaries of the ''Public Settlement Lands'' recited in the Act of August 18, 1987, (Pub. L. 100–95) held in trust for the Wampanoag Tribal Council of Gay Head Inc., in the town of Gay Head, Dukes County, in the State of Massachusetts. Survey requested by the Bureau of Indian Affairs (BIA), Eastern Region.

The dependent resurvey and survey of the boundaries of land held in trust by the United States, commonly referred to as the Henderson Parcel for the Houlton Band of Maliseet Indians, in Houlton and Littleton, Aroostook County, in the State of Maine.

The resurvey of a portion of the Westerly Right of Way of the Foxcroft Road, a metes and bounds survey in lot 13, ranges 3 and 4, and a survey of the thread of the Meduxnekeag River, Lots 13 and 14, range 4, and in lot 12, range 3 for lands held in trust for the Houlton Band of Maliseet Indians, in Houlton, Aroostook County, in the State of Maine. Survey requested by the Houlton Band of Maliseet Indians.

A person or party who wishes to protest a survey must file a written notice of protest within 30 calendar days from the date of this publication at the address list in the **ADDRESSES** section of this notice. A statement of reasons for the protest may be filed with the notice of protest and must be filed within 30 calendar days after the protest is filed. If a protest against the survey is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed or otherwise resolved.

Before including your address, phone number, email address, or other personal identifying information in your comment, please be aware that your entire protest, 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.

A copy of the described plats will be placed in the open files, and available to the public as a matter of information.

Authority: 43 U.S.C. Chap. 3.

Kenneth D. Roy,

Chief Cadastral Surveyor.

[FR Doc. 2019–18253 Filed 8–23–19; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–CRPS–NPS0028076; PPWOCRADI0, PPMRSCR1Y.Y00000, P103601 (199); OMB Control Number 1024–0271]

Agency Information Collection Activities; Gathering of Certain Plants or Plant Parts by Federally Recognized Indian Tribes for Traditional Purposes

AGENCY: National Park Service, Interior.

ACTION: Notice of Information Collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the National Park Service (NPS), are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before September 25, 2019.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's (OMB) Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or by facsimile at 202–395–5806. Please provide a copy of your comments to Phadrea Ponds, Information Collection Clearance Officer, National Park Service, 1201 Oakridge Drive, Fort Collins, CO 80525; or by email at *phadrea_ponds@nps.gov.* Please reference OMB Control Number 1024–0271 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Jennifer Talken-Spaulding, Bureau Cultural Anthropologist, National Park Service, 1849 C Street NW, Mail Stop 7360, Washington, DC 20240; or by email at *jennifer_talken-spaulding@nps.gov.* Please reference OMB Control Number 1024–0271 in the subject line of your comments. 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.

On June 5, 2019, we published a **Federal Register** notice soliciting comments on this collection of information for 60 days, ending on August 5, 2019 (84 FR 26154). We did not receive any comments regarding this information collection.

We are again soliciting comments on the proposed ICR described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the NPS; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the NPS enhance the quality, utility, and clarity of the information to be collected; and (5) how might the NPS 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. We will include or summarize each comment in our request to OMB to approve this ICR. 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: Gathering and removing plants or plant parts is currently prohibited in National Park System areas unless specifically authorized by Federal statute or treaty rights or conducted under the limited circumstances authorized by an existing regulation codified in 36 CFR 2.1(c). Regulations codified in 36 CFR part 2 allow the gathering and removal of plants or plant parts by enrolled members of federally recognized tribes for traditional purposes. The regulations authorize agreements between the NPS and federally recognized tribes to facilitate the continuation of tribal cultural practices on lands within areas of the National Park System where those practices traditionally occurred, without causing a significant adverse impact to park resources or values. The regulations:

- respect tribal sovereignty and cultural practices,
- further the government-to-government relationship between the United States and the Indian Tribes,
- provide system-wide consistency for this aspect of NPS-Tribal relations.

The agreements explicitly recognize the special government-to-government relationship between the United States and Indian Tribes, and are based upon mutually agreed upon terms and conditions subject to the requirements of 36 CFR 2.6(f). The agreements serve as the documents through which the NPS authorizes tribal gathering implemented by an accompanying permit authorized by 36 CFR 1.6. Only enrolled members of a federally recognized tribe are allowed to collect plants or plant parts, and the tribe must be traditionally associated with the specific park area. This traditional association must predate the establishment of the park. The plant gathering must meet a traditional purpose that is a customary activity and practice rooted in the history of the tribe and is important for the continuation of the tribe's distinct culture. Authorized plant gathering must be sustainable and may not result in a significant adverse impact on park resources or values. The sale and commercial use of plants or plant parts within areas of the National Park System will continue to be prohibited by the NPS regulations in 36 CFR 2.1(c)(3)(v).

The information collections associated with 36 CFR part 2 include:

(1) The initial request from a tribe that we enter into an agreement with the tribe for gathering and removal of plants or plant parts for traditional purposes. The request must include the information specified in § 2.6(c).

(2) The agreement defines the terms under which the NPS may issue a permit to a tribe for plant gathering purposes. To make determinations based upon tribal requests or to enter into an agreement, we may need to collect information from specific tribal members or tribes who make requests. The agreement must contain the information specified in § 2.6(f).

(3) Tribes may submit an appeal to the NPS to provide additional information on historical relationship of the tribe, traditional uses of plants to be gathered, and/or the impact of gathering on the resource of concern in the event of a denial by the NPS on this issue.

Title of Collection: Gathering of Certain Plants or Plant Parts by Federally Recognized Indian Tribes for Traditional Purposes, 36 CFR 2.

OMB Control Number: 1024–0271.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Indian Tribes.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: None.

Activity/requirement	Estimated number of annual responses	Completion time per response (Hours)	Estimated total annual burden hours
Initial Written Request from an Indian Tribal Official	20	4	80
Agreement with Indian Tribe	5	80	400
Appeals	5	10	50
Total	30	94	530

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.*).

Phadrea Ponds,

Acting NPS Information Collection Clearance Officer, National Park Service.

[FR Doc. 2019–18259 Filed 8–23–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRSS–BRD–NPS0027380; PPWONRADB0 PPMRSNR1Y.NM00000 199; OMB Control Number 1024–0265]

Agency Information Collection Activities; NPS Institutional Animal Care and Use Committee (IACUC) General Submission, Exhibitor, Annual Review, and Amendment Forms

AGENCY: National Park Service, Interior.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the National Park Service (NPS) are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before September 25, 2019.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's (OMB) Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or by facsimile at 202–395–5806. Please provide a copy of your comments to Phadrea Ponds, Information Collection Clearance Officer, National Park Service, 1201 Oakridge Drive, Fort

Collins, CO 80525; or by email at *phadrea_ponds@nps.gov.* Please reference OMB Control Number 1024–0265 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Aaron Smith, NPS IACUC Administrator by mail at Biological Resource Division, 1201 Oakridge Drive, Suite 200, Fort Collins, CO, 80525; or by email at *aaron_d_smith@nps.gov.* You may also contact Tracy Thompson by email at *tracy_thompson@nps.gov.*

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.

On May 14, 2019, we published a **Federal Register** notice soliciting comments on this collection of information for 60 days, ending on July 13, 2019 (84 FR 21355). We did not receive any comments in response to that notice.

We are again soliciting comments on the proposed ICR described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the NPS; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the NPS enhance the quality, utility, and clarity of the information to be collected; and (5) how might the NPS 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. We will include or summarize each comment in our request to OMB to approve this ICR. 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: Pursuant to the Animal Welfare Act (AWA), its Regulations (AWAR), and the Interagency Research Animal Committee (IRAC), any entity or institution that uses vertebrate animals for research, testing, or training purposes must have an oversight committee to evaluate all aspects of that institution's animal care and use. To be in compliance, the NPS is responsible for managing and maintaining an Institutional Animal Care and Use Committee (IACUC) that provides the experience and expertise necessary to assess and approve all research, testing, or training activities involving vertebrate animals on NPS managed lands and territories. All research, testing, or training projects involving animals taking place on NPS territories must be approved by the NPS IACUC prior to their commencement.

Principal Investigators (PI) are required to submit one of the following forms for consideration by the committee:

- IACUC General Submission (GS) Form (NPS Form 10–1301)
- IACUC Amendment Form (NPS Form 10–1301A)
- IACUC Annual Review Form (NPS Form 10–1302)
- IACUC Concurrence Form (NPS Form 10–1303)
- IACUC Field Study Form (NPS Form 10–1304)

As determined by the AWA, The NPS Institutional Animal Care and Use Committee (NPS IACUC), is a self-regulating entity that currently consists of a Chair, NPS Regional members, and two additional posts (a veterinarian to serve as the ''Attending Veterinarian'' and another individual to serve as the ''Unaffiliated Member At-Large'').

Title of Collection: NPS Institutional Animal Care and Use Committee (IACUC) General Submission, Annual Review, Concurrence, Field Study, and Amendment Forms.

OMB Control Number: 1024–0265.

Form Numbers: NPS Forms 10–1301, 10–1301A, and 10–1302 through 10–1304.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: State and local governments; nonprofit organizations and private businesses.

Respondent's Obligation: Mandatory.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: None.

Respondent and forms	Annual number of responses	Completion time per form	Total burden (hours) *
State and Local Agencies:			
General Submission Form (NPS Form 10–1301)	14	3 hours	42
Amendment Form (NPS Form 10–1301A)	10	15 mins	3
Annual Review Form (NPS Form 10–1302)	55	15 mins	14
Field Study Form (NPS Form 10–1304)	10	1 hour	10
Concurrence Form (NPS Form 10–1303)	41	15 mins	10
Subtotal	*130*		*79*
Private (non-profit):			
General Submission Form (NPS Form 10–1301)	10	3 hours	30
Amendment Form (NPS Form 10–1301A)	10	15 mins	3
Annual Review Form (NPS Form 10–1302)	40	15 mins	10
Field Study Form (NPS Form 10–1304)	10	1 hour	10
Concurrence Form (NPS Form 10–1303)	30	15 mins	8
Subtotal	*100*		*61*
TOTAL	230		140

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.*).

Phadrea D. Ponds,

Acting Information Collection Clearance Officer, National Park Service.

[FR Doc. 2019–18258 Filed 8–23–19; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1435–1436, 1438–1440 (Final)]

Acetone From Belgium, Korea, Singapore, South Africa, and Spain; Scheduling of the Final Phase of Anti-Dumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation Nos. 731–TA–1435–1436, 1438–1440 (Final) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of acetone from Belgium, Korea, Singapore, South Africa, and Spain, provided for in subheading 2914.11.10 and 2914.11.50 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce (''Commerce'') to be sold at less-than-fair-value.

DATES: July 29, 2019.

FOR FURTHER INFORMATION CONTACT: Abu B. Kanu (202–205–2597), Office of Investigations, 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 (*https://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Scope.—For purposes of this investigation, Commerce has defined the subject merchandise as is ''all grades of liquid or aqueous acetone. Acetone is also known under the International Union of Pure and Applied Chemistry (IUPAC) name propan-2-one. In addition to the IUPAC name, acetone is also referred to as β-ketopropane (or betaketopropane), ketone propane, methyl ketone, dimethyl ketone, DMK, dimethyl carbonyl, propanone, 2-propanone, dimethyl formaldehyde, pyroacetic acid, pyroacetic ether, and pyroacetic spirit. Acetone is an isomer of the chemical formula C3H6O, with a specific molecular formula of CH3COCH3 or (CH3)2CO. The scope includes acetone that is combined or mixed with other products, including, but not limited to, isopropyl alcohol, benzene, diethyl ether, methanol, chloroform, and ethanol, regardless of the quantity or value of the acetone component. For such combined products, only the acetone component is covered by the scope of these investigations. Acetone that has been combined with other products is included within the scope, regardless of whether the combining occurs in third countries.''

Background.—The final phase of these investigations is being scheduled, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), as a result of affirmative preliminary determinations by Commerce that imports of acetone from Belgium, Korea, Singapore, South Africa, and Spain are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on February 19, 2019 by AdvanSix Inc., Parsippany, New Jersey, Altivia Petrochemicals, LLC, Haverhill, Ohio, and Olin Corporation, Clayton, Missouri.

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on October 4, 2019, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on Monday, October 21, 2019, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before October 16, 2019. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held on October 18, 2019, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their

hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is October 11, 2019. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is October 28, 2019. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before October 28, 2019. On November 6, 2019, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before November 8, 2019, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on E-Filing,* available on the Commission's website at *https://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall 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 sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (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.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: August 21, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–18334 Filed 8–23–19; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0010]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Application To Transport Interstate or Temporarily Export Certain National Firearms Act (NFA) Firearms—ATF F 5320.20

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: The proposed information collection was previously published in the **Federal Register,** on June 21, 2019, allowing for a 60-day comment period. Comments are encouraged and will be accepted for an additional 30 days until September 25, 2019.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, particularly with respect to the estimated public burden or associated response time, have suggestions, need a copy of the proposed information collection instrument with instructions, or desire any other additional information, please contact: James Chancey, National Firearms Act Division either by mail at 244 Needy Road, Martinsburg, WV 25405, by email at *nfaombcomments@atf.gov,* or by telephone at 304–616–4500. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *The Title of the Form/Collection:* Application to Transport Interstate or Temporarily Export Certain National Firearms Act (NFA) Firearms.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF F 5320.20.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals or households.

Other: Business or other for-profit, Federal Government, and State, Local, or Tribal Government.

Abstract: Certain National Firearms Act firearms may not be transported interstate or temporarily exported by any person, other than a qualified Federal firearms licensee, without approval from ATF. The associated regulation requires a written request. The Application to Transport Interstate or Temporarily Export Certain National Firearms Act (NFA)—ATF Form 5320.20 provides for these regulatory requirements and may be used as a written request.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 17,000

respondents will utilize the form once, and it will take each respondent approximately 20 minutes to complete their responses.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 5,610 hours, which is equal to 17,000 (# of responses) * 1 (# of responses per respondent) * .33 (20 minutes).

(7) *An Explanation of the Change in Estimates:* An estimated increase in the total respondents to this IC in 2019 has caused a rise in both the number of responses and burden hours for this IC by 7,000 and 2,310 hours respectively. The cost burden for this IC is also expected to increase by $4,130.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: August 21, 2019.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2019–18275 Filed 8–23–19; 8:45 am]

BILLING CODE 4410–14–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Cayman Chemical Company

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before October 25, 2019.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on July 25, 2018, Cayman Chemical Company, 1180 East Ellsworth Road, Ann Arbor, Michigan 48108 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
3-Fluoro-N-methylcathinone (3–FMC)	1233	I
Cathinone	1235	I
Methcathinone	1237	I
4-Fluoro-N-methylcathinone (4–FMC)	1238	I
Pentedrone (α-methylaminovalerophenone)	1246	I
Mephedrone (4-Methyl-N-methylcathinone)	1248	I
4-Methyl-N-ethylcathinone (4–MEC)	1249	I
Naphyrone	1258	I
N-Ethylamphetamine	1475	I
N,N-Dimethylamphetamine	1480	I
Fenethylline	1503	I
Aminorex	1585	I
4-Methylaminorex (cis isomer)	1590	I
Gamma Hydroxybutyric Acid	2010	I
Methaqualone	2565	I
Mecloqualone	2572	I
JWH–250 (1-Pentyl-3-(2-methoxyphenylacetyl) indole)	6250	I
SR–18 (Also known as RCS–8) (1-Cyclohexylethyl-3-(2-methoxyphenylacetyl) indole)	7008	I
ADB–FUBINACA (n-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)	7010	I
5-Flouro–UR–144 and XLR11 [1-(5-Fluoro-pentyl)1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone	7011	I
AB–FUBINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)	7012	I
JWH–019 (1-Hexyl-3-(1-naphthoyl)indole)	7019	I
MDMB–FUBINACA (Methyl 2-(1-4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7020	I
2-(1-(4-fluorobenzyl)-1Hindazole-3-carboxamido)-3-methylbutanoate	7021	I
AB–PINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)	7023	I
THJ–2201 [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone	7024	I
AB–CHMINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide	7031	I
MAB–CHMINACA (N-(1-amino-3,3dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide)	7032	I
5F–AMB (Methyl 2-(1-(5-fluoropentyl)-1H-indazola-3-carboxamido)-3-methylbutanoate)	7033	I
5F–ADB; 5F–MDMB–PINACA (Methyl 2-(1-(5fluoropentyl)-1H-indazole-3-carboxamido)-3,3dimethylbutanoate)	7034	I
ADB–PINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)	7035	I
MDMB–CHMICA, MMB–CHMINACA (Methyl 2-(1-(cyclohenxylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanote)-	7042	I
APINACA and AKB48 N-(1-Adamantyl)-1-pentyl-1H-indazole-3-carboxamide	7048	I
5F–APINACA, 5F–AKB48 (N-(adamantan-1-yl)-1-(5fluoropentyl)-1H-indazole-3-carboxamide)	7049	I
JWH–081 (1-Pentyl-3-(1-(4-methoxynaphthoyl) indole)	7081	I
SR–19 (Also known as RCS–4) (1-Pentyl-3-[(4-methoxy)-benzoyl] indole	7104	I
JWH–018 (also known as AM678) (1-Pentyl-3-(1-naphthoyl)indole)	7118	I
JWH–122 (1-Pentyl-3-(4-methyl-1-naphthoyl) indole)	7122	I
UR–144 (1-Pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone	7144	I
JWH–073 (1-Butyl-3-(1-naphthoyl)indole)	7173	I
JWH–200 (1-[2-(4-Morpholinyl)ethyl]-3-(1-naphthoyl)indole)	7200	I
AM2201 (1-(5-Fluoropentyl)-3-(1-naphthoyl) indole)	7201	I
JWH–203 (1-Pentyl-3-(2-chlorophenylacetyl) indole)	7203	I
PB–22 (Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate)	7222	I
5F–PB–22 (Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate)	7225	I
Alpha-ethyltryptamine	7249	I
Ibogaine	7260	I

Controlled substance	Drug code	Schedule
CP–47,497 (5-(1,1-Dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl-phenol)	7297	I
CP–47,497 C8 Homologue (5-(1,1-Dimethyloctyl)-2-[(1R,3S)3-hydroxycyclohexyl-phenol)	7298	I
Lysergic acid diethylamide	7315	I
2,5-Dimethoxy-4-(n)-propylthiophenethylamine (2C–T–7)	7348	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Mescaline	7381	I
2-(4-Ethylthio-2,5-dimethoxyphenyl) ethanamine (2C–T–2)	7385	I
3,4,5-Trimethoxyamphetamine	7390	I
4-Bromo-2,5-dimethoxyamphetamine	7391	I
4-Bromo-2,5-dimethoxyphenethylamine	7392	I
4-Methyl-2,5-dimethoxyamphetamine	7395	I
2,5-Dimethoxyamphetamine	7396	I
JWH–398 (1-Pentyl-3-(4-chloro-1-naphthoyl) indole)	7398	I
2,5-Dimethoxy-4-ethylamphetamine	7399	I
3,4-Methylenedioxyamphetamine	7400	I
5-Methoxy-3,4-methylenedioxyamphetamine	7401	I
N-Hydroxy-3,4-methylenedioxyamphetamine	7402	I
3,4-Methylenedioxy-N-ethylamphetamine	7404	I
3,4-Methylenedioxymethamphetamine	7405	I
4-Methoxyamphetamine	7411	I
5-Methoxy-N-N-dimethyltryptamine	7431	I
Alpha-methyltryptamine	7432	I
Diethyltryptamine	7434	I
Dimethyltryptamine	7435	I
Psilocybin	7437	I
Psilocyn	7438	I
5-Methoxy-N,N-diisopropyltryptamine	7439	I
N-Ethyl-1-phenylcyclohexylamine	7455	I
1-(1-Phenylcyclohexyl)pyrrolidine	7458	I
1-[1-(2-Thienyl)cyclohexyl]piperidine	7470	I
1-[1-(2-Thienyl)cyclohexyl]pyrrolidine	7473	I
N-Benzylpiperazine	7493	I
2-(2,5-Dimethoxy-4-methylphenyl) ethanamine (2C–D)	7508	I
2-(2,5-Dimethoxy-4-ethylphenyl) ethanamine (2C–E)	7509	I
2-(2,5-Dimethoxyphenyl) ethanamine (2C–H)	7517	I
2-(4-iodo-2,5-dimethoxyphenyl) ethanamine (2C–I)	7518	I
2-(4-Chloro-2,5-dimethoxyphenyl) ethanamine (2C–C)	7519	I
2-(2,5-Dimethoxy-4-nitro-phenyl) ethanamine (2C–N)	7521	I
2-(2,5-Dimethoxy-4-(n)-propylphenyl) ethanamine (2C–P)	7524	I
2-(4-Isopropylthio)-2,5-dimethoxyphenyl) ethanamine (2C–T–4)	7532	I
MDPV (3,4-Methylenedioxypyrovalerone)	7535	I
2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25B–NBOMe)	7536	I
2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25C–NBOMe)	7537	I
2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25I–NBOMe)	7538	I
Methylone (3,4-Methylenedioxy-N-methylcathinone)	7540	I
Butylone	7541	I
Pentylone	7542	I
alpha-pyrrolidinopentiophenone (α-PVP)	7545	I
alpha-pyrrolidinobutiophenone (α-PBP)	7546	I
AM–694 (1-(5-Fluoropentyl)-3-(2-iodobenzoyl) indole)	7694	I
Acetyldihydrocodeine	9051	I
Benzylmorphine	9052	I
Codeine-N-oxide	9053	I
Desomorphine	9055	I
Etorphine (except HCl)	9056	I
Codeine methylbromide	9070	I
Dihydromorphine	9145	I
Heroin	9200	I
Morphine-N-oxide	9307	I
Normorphine	9313	I
U–47700 (3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide)	9547	I
MT–45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine))	9560	I
Tilidine	9750	I
Acryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide)	9811	I
Para-Fluorofentanyl	9812	I
3-Methylfentanyl	9813	I
Alpha-methylfentanyl	9814	I
Acetyl-alpha-methylfentanyl	9815	I
N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)propionamide	9816	I
Acetyl Fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide)	9821	I
Butyryl Fentanyl	9822	I
Para-fluorobutyryl fentanyl	9823	I

Controlled substance	Drug code	Schedule
4-Fluoroisobutyryl fentanyl (N-(4-fluorophenyl)-N-(1phenethylpiperidin-4-yl)isobutyramide)	9824	I
2-methoxy-N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide	9825	I
Para-chloroisobutyryl fentanyl	9826	I
Isobutyryl fentanyl	9827	I
Beta-hydroxyfentanyl	9830	I
Beta-hydroxy-3-methylfentanyl	9831	I
Alpha-methylthiofentanyl	9832	I
3-Methylthiofentanyl	9833	I
Furanyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide)	9834	I
Thiofentanyl	9835	I
Beta-hydroxythiofentanyl	9836	I
Para-methoxybutyryl fentanyl	9837	I
Ocfentanil	9838	I
Valeryl fentanyl	9840	I
N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide	9843	I
Cyclopropyl Fentanyl	9845	I
Cyclopentyl fentanyl	9847	I
Fentanyl related-compounds as defined in 21 CFR 1308.11(h)	9850	I
Amphetamine	1100	II
Methamphetamine	1105	II
Lisdexamfetamine	1205	II
Phenmetrazine	1631	II
Methylphenidate	1724	II
Amobarbital	2125	II
Pentobarbital	2270	II
Secobarbital	2315	II
Phencyclidine	7471	II
4-Anilino-N-phenethyl-4-piperidine (ANPP)	8333	II
Phenylacetone	8501	II
1-Piperidinocyclohexanecarbonitrile	8603	II
Cocaine	9041	II
Codeine	9050	II
Etorphine HCl	9059	II
Dihydrocodeine	9120	II
Oxycodone	9143	II
Hydromorphone	9150	II
Ecgonine	9180	II
Ethylmorphine	9190	II
Hydrocodone	9193	II
Levomethorphan	9210	II
Levorphanol	9220	II
Isomethadone	9226	II
Meperidine	9230	II
Meperidine intermediate–B	9233	II
Methadone	9250	II
Dextropropoxyphene, bulk (non-dosage forms)	9273	II
Morphine	9300	II
Thebaine	9333	II
Oxymorphone	9652	II
Thiafentanil	9729	II
Alfentanil	9737	II
Remifentanil	9739	II
Sufentanil	9740	II
Carfentanil	9743	II
Tapentadol	9780	II
Fentanyl	9801	II

The company plans to bulk manufacture the listed controlled substances to produce forensic and research of analytical reference standards for distribution to its customers. In reference to marihuana (7360) and tetrahydrocannabinols (7370) the company will manufacture as synthetics only. No other activities for these drug codes are authorized for this registration.

Dated: August 9, 2019.

Neil D. Doherty,

Acting Assistant Administrator.

[FR Doc. 2019–18322 Filed 8–23–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Cambrex High Point, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and

applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before October 25, 2019.

ADDRESS: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on June 19, 2019, Cambrex High Point, Inc., 4180 Mendenhall Oaks Parkway, High Point, North Carolina 27265–8017 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Oxymorphone	9652	II
Noroxymorphone	9668	II

The company plans to manufacture the above listed controlled substances in bulk for distribution to its customers. No other activities for these drug codes are authorized for this registration.

Dated: August 9, 2019.

Neil D. Doherty,

Acting Assistant Administrator.

[FR Doc. 2019–18324 Filed 8–23–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Clinical Supplies Management Holdings, Inc.

ACTION: Notice of application.

DATES: Registered bulk importers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before September 25, 2019. Such persons may also file a written request for a hearing on the application on or before September 25, 2019.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on June 5, 2019, Clinical Supplies Management Holdings, Inc., 342 42nd Street South, Fargo, North Dakota 58103 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Marihuana	7360	I
Tetrahydrocannabinols	7370	I

The company plans to import listed controlled substances in their finished dosage form for use in clinical trials only. Drug codes 7350 (marihuana extract) and 7360 (marihuana) will be used for the manufacture of cannabidiol only.

Dated: August 9, 2019.

Neil D. Doherty,

Acting Assistant Administrator.

[FR Doc. 2019–18320 Filed 8–23–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Registration AMPAC Fine Chemicals Virginia, LLC

ACTION: Notice of registration.

SUMMARY: The registrant listed below have applied for and been granted a registration by the Drug Enforcement Administration (DEA) as a bulk manufacturer of various basic classes of schedule II controlled substances.

SUPPLEMENTARY INFORMATION: The company listed below applied to be registered as a bulk manufacturer of various basic classes of scheduled II controlled substances. Information on a previously published notice is listed below. No comments or objections were submitted for this notice.

Company	FR docket	Published
AMPAC Fine Chemicals Virginia, LLC.	84 FR 21810	May 15, 2019.

The DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of this registrant to manufacture the applicable various basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the DEA has granted a registration as a bulk manufacturer to the above listed company.

Dated: August 9, 2019.

Neil D. Doherty,

Acting Assistant Administrator.

[FR Doc. 2019–18325 Filed 8–23–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: AMRI Renesselaer, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before October 25, 2019.

ADDRESS: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on March 15, 2019, AMRI Rensselaer, Inc., 33 Riverside Avenue, Rennselaer, New York 12144–2951 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Amphetamine	1100	II
Lisdexamfetamine	1205	II
Pentobarbital	2270	II
4-Anilino-N-phenethyl-4-piperidine (ANPP).	8333	II
Codeine	9050	II

Controlled substance	Drug code	Schedule
Oxycodone	9143	II
Hydromorphone	9150	II
Hydrocodone	9193	II
Meperidine	9230	II
Morphine	9300	II
Fentanyl	9801	II

The company plans to manufacture bulk controlled substances for use in product development and for distribution to its customers. In reference to drug codes 7360 (marihuana) and 7370 (tetrahydrocannabinols), the company plans to bulk manufacture these drugs as synthetics. No other activities for these drug codes are authorized for this registration.

Dated: August 9, 2019.

Neil D. Doherty,

Acting Assistant Administrator.

[FR Doc. 2019–18323 Filed 8–23–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Cambrex High Point, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before September 25, 2019. Such persons may also file a written request for a hearing on the application on or before September 25, 2019.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on June 19, 2019, Cambrex High Point, Inc., 4180 Mendenhall Oaks Parkway, High Point, North Carolina 27265–8017 applied to be registered as an importer of the following basic class of controlled substance:

Controlled substance	Drug code	Schedule
Poppy Straw Concentrate.	9670	II

The company plans to import the listed controlled substance for research purposes.

Dated: August 9, 2019.

Neil D. Doherty,

Acting Assistant Administrator.

[FR Doc. 2019–18321 Filed 8–23–19; 8:45 am]

BILLING CODE 4410–09–P

OFFICE OF MANAGEMENT AND BUDGET

OMB Sequestration Update Report to the President and Congress for Fiscal Year 2020

AGENCY: Executive Office of the President, Office of Management and Budget.

ACTION: Notice of availability of the OMB Sequestration Update Report to the President and Congress for FY 2020.

SUMMARY: OMB is issuing the *OMB Sequestration Update Report to the President and Congress for Fiscal Year 2020* to report on the status of the discretionary caps and on the compliance of pending discretionary appropriations legislation with those caps.

DATES: August 20, 2019.

ADDRESSES: The OMB Sequestration Reports to the President and Congress is available on-line on the OMB home page at: *https://www.whitehouse.gov/omb/legislative/sequestration-reports-orders/.*

FOR FURTHER INFORMATION CONTACT: Thomas Tobasko, 6202 New Executive Office Building, Washington, DC 20503, Email address: *ttobasko@omb.eop.gov,* telephone number: (202) 395–5745, FAX number: (202) 395–4768. Because of delays in the receipt of regular mail related to security screening, respondents are encouraged to use electronic communications.

SUPPLEMENTARY INFORMATION: Section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 requires the Office of Management and Budget (OMB) to issue a Sequestration Update Report by August 20th of each year. For fiscal year 2019, the report finds enacted appropriations to be at or below the caps after accounting for enacted supplemental appropriations. For fiscal years 2020 and 2021, the report formally updates the caps for the revisions enacted in the Bipartisan Budget Act of 2019. The report also finds that actions to date by the House of Representatives for the 12 annual appropriations bills for fiscal year 2020 would breach the non-defense cap under OMB estimates if they were enacted into law. The Senate has not yet begun consideration of its 2020 appropriations bills; therefore, an evaluation of Senate compliance cannot be made at this time. Finally, the report contains OMB's Preview Estimate of the Disaster Relief Funding Adjustment for FY 2020.

Russell T. Vought,

Acting Director.

[FR Doc. 2019–18442 Filed 8–23–19; 8:45 am]

BILLING CODE 3110–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2019–035]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is proposing to request that the Office of Management and Budget (OMB) renew approval of an information collection our Office of Government Information Services (OGIS) uses to obtain customer intake information and consent as part of its mediation services program. OGIS collects customer name, contact information, case number, information on the customer's concern areas/resolution goals, and documents relating to the underlying Freedom of Information Act/Privacy Act request or appeal as part of its intake process in order to provide mediation services. In some cases, customers also complete a privacy consent form, NA Form 10003, authorizing OGIS to make inquiries on the customer's behalf and authorizing agencies to release to OGIS information and records related to their FOIA/Privacy Act requests and appeals. We invite you to comment on this proposed information collection.

DATES: We must receive written comments on or before October 25, 2019.

ADDRESSES: Send comments to Paperwork Reduction Act Comments

(MP), Room 4100; National Archives and Records Administration; 8601 Adelphi Road; College Park, MD 20740–6001, fax them to 301–837–7409, or email them to *tamee.fechhelm@nara.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Tamee Fechhelm by telephone at 301–837–1694 or fax at 301–837–7409 with requests for additional information or copies of the proposed information collection and supporting statement.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we invite the public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether we need the proposed information collection to properly perform our agency functions; (b) our estimate of the burden of the proposed information collection and its accuracy; (c) ways we could enhance the quality, utility, and clarity of the information we collect; (d) ways we could minimize the burden on respondents of collecting the information, including through information technology; and (e) whether this collection affects small businesses. We will summarize any comments you submit and include the summary in our request for OMB approval. All comments will become a matter of public record. In this notice, we solicit comments concerning the following information collection:

Title: Freedom of Information Act (FOIA) Request for Assistance and Consent.

OMB number: 3095–0068.

Agency form number: NA Form 10003.

Type of review: Regular.

Affected public: Individuals or households, business or other for-profit, not-for-profit institutions, and Federal Government.

Estimated number of respondents: 3,646.

Estimated time per response: Ten minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 608 hours (3,646 responses × 10 minutes/by 60).

Abstract: In order to fulfill its Government-wide statutory mission to mediate FOIA disputes between requesters and agencies, OGIS must communicate with Government departments and agencies regarding the customer's Freedom of Information Act (FOIA)/Privacy Act of 1974 request or appeal. As a result, OGIS collects intake information from customers who request OGIS's mediation services. This information includes the customer's name, contact information, FOIA case number, information on the customer's concern areas/resolution goals, and documents relating to the underlying Freedom of Information Act/Privacy Act request or appeal. Customers provide this information by phone, fax, email, or mail.

OGIS and other agencies must handle FOIA and Privacy Act-protected case information in conformity with the requirements of the FOIA and Privacy Act, including 5 U.S.C. 552a(b), which prohibits agencies from releasing Privacy-Act protected information without an already-established routine use or consent of the person to whom the information pertains. In accord with this requirement, a subset of customers also must fill out a privacy consent form, NA Form 10003, if dealing with an agency that has not published a system of records notice with a routine use for release of information to OGIS.

OGIS uses the information customers provide in this information collection to contact customers, request information on the customer's case from other Federal agencies, and provide the requested assistance. Without the information submitted in the intake process and the consent form, OGIS would be unable to get the information from other agencies or fulfill its mediation mission.

Swarnali Haldar,

Executive for Information Services/CIO.

[FR Doc. 2019–18293 Filed 8–23–19; 8:45 am]

BILLING CODE 7515–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Wednesday, August 28, 2019.

PLACE: The meeting will be held at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov*.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matters of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: August 21, 2019.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2019–18367 Filed 8–22–19; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86714; File No. SR–NYSEArca–2019–55]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To Amend NYSE Arca Rule 8.700–E and To List and Trade Shares of the Dynamic Short Short-Term Volatility Futures ETF

August 20, 2019.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'' or the ''Exchange Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on August 7, 2019, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes (1) to amend NYSE Arca Rule 8.700–E to add futures contracts and swaps on the Cboe Volatility Index (''VIX'') to the financial instruments that an issue of Managed Trust Securities may hold; and (2) to list and trade shares of the Dynamic Short Short-Term Volatility Futures ETF under proposed amended NYSE Arca Rule 8.700–E. The proposed change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change 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

NYSE Arca Rule 8.700–E permits the trading of Managed Trust Securities either by listing or pursuant to unlisted trading privileges (''UTP'').[3] The Exchange proposes to amend NYSE Arca Rule 8.700–E (c)(1) to add futures contracts and/or swaps on the Cboe Volatility Index (''VIX Index'' or ''VIX'') to the financial instruments that an issue of Managed Trust Securities may hold long and/or short positions. (Futures on the VIX Index are referred to herein as ''VIX Futures'' or ''VIX Futures Contracts''). In addition, the Exchange proposes to list and trade the shares (the ''Shares'') of the Dynamic Short Short-Term Volatility Futures ETF (the ''Fund'') a series of Dynamic Shares Trust (''Trust'') under proposed amended NYSE Arca Rule 8.700–E.[4]

The Commission has previously approved the listing and trading of options on the VIX.[5] In addition, the Commission has previously approved an amendment to NYSE Arca Rule 5.2–E(j)(6) (''Index-Linked Securities'') to add VIX Futures to the definition of Futures Reference Assets applicable to ''Futures-Linked Securities,''[6] and has approved listing and trading on the Exchange of series of Trust Issued Receipts that invest in VIX Futures.[7]

The Exchange notes that the Commission has issued a notice of effectiveness regarding amendments to NYSE Arca Rule 5.2–E(j)(6)(v) to add futures on another index referencing market volatility—the EURO STOXX 50 Volatility Index (''VSTOXX'')—as a ''Futures Reference Asset'' underlying an issue of ''Futures-Linked Securities.''[8] In addition, the Commission has approved an amendment to NYSE Arca Rule 8.700–E to add the VSTOXX as a reference asset to the futures contracts and swaps that may be held by trusts that issue Managed Trust Securities.[9]

The Exchange believes that the proposed amendment to add VIX Futures and/or swaps on VIX to the financial instruments in which an issue of Managed Trust Securities may hold long and/or short positions will provide investors with the ability to better diversify and hedge their portfolios using an exchange traded security without having to trade directly in the underlying VIX Futures, and will facilitate the listing and trading on the Exchange of additional Managed Trust Securities that will enhance competition among market participants, to the benefit of investors and the marketplace.

The Exchange believes that its surveillance procedures are adequate to continue to properly monitor the trading of Managed Trust Securities that hold

[3] Managed Trust Security means a security that is registered under the Securities Act of 1933 (15 U.S.C. 77a), as amended (the ''Securities Act''), and (i) is issued by a trust (''Trust''), or any series thereof, that (1) is a commodity pool as defined in the Commodity Exchange Act and regulations thereunder, is not registered or required to be registered as an investment company under the Investment Company Act of 1940, as amended, and is managed by a commodity pool operator registered with the Commodity Futures Trading Commission, and (2) holds long and/or short positions in exchange-traded futures contracts and/or certain currency forward contracts and/or swaps selected by the Trust's advisor consistent with the Trust's investment objectives, which will only include exchange-traded futures contracts involving commodities, commodity indices, currencies, currency indices, stock indices, the EURO STOXX 50 Volatility Index (VSTOXX), fixed income indices, interest rates and sovereign, private and mortgage or asset backed debt instruments, and/or forward contracts on specified currencies, and/or swaps on stock indices, fixed income indices, commodity indices, VSTOXX, commodities, currencies, currency indices, or interest rates, each as disclosed in the Trust's prospectus as such may be amended from time to time, and cash and cash equivalents; and (ii) is issued and redeemed continuously in specified aggregate amounts at the next applicable net asset value. *See* NYSE Arca Rule 8.700–E (c)(1).

[4] On June 5, 2019, the Trust submitted to the Commission its draft registration statement on Form S–1 under the Securities Act of 1933 (15 U.S.C. 77a) (''Securities Act''). The Jumpstart Our Business Startups Act, enacted on April 5, 2012, added Section 6(e) to the Securities Act. Section 6(e) of the Securities Act provides that an ''emerging growth company'' may confidentially submit to the Commission a draft registration statement for confidential, non-public review by the Commission staff prior to public filing, provided that the initial confidential submission and all amendments thereto shall be publicly filed not later than 21 days before the date on which the issuer conducts a road show, as such term is defined in Securities Act Rule 433(h)(4). An emerging growth company is defined in Section 2(a)(19) of the Securities Act as an issuer with less than $1,000,000,000 total annual gross revenues during its most recently completed fiscal year. The Trust meets the definition of an emerging growth company and consequently has submitted its Form S–1 registration statement (''Registration Statement'') on a confidential basis with the Commission. The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement.

[5] *See* Securities Exchange Release No. 48807 (November 19, 2003), 68 FR 66516 (November 26, 2003) (SR–CBOE–2003–40).

[6] *See* Securities Exchange Act Release Nos. 65134 (August 15, 2011), 76 FR 52034 (August 19, 2011) (SR–NYSEArca–2011–23) (Order Granting Approval of Proposed Rule Change to List and Trade Shares of ProShares Short VIX Short-Term Futures ETF, ProShares Short VIX Mid-Term Futures ETF, ProShares Ultra VIX Short-Term Futures ETF, ProShares Ultra VIX Mid-Term Futures ETF, ProShares UltraShort VIX Short-Term Futures ETF, and ProShares UltraShort VIX Mid-Term Futures ETF under NYSE Arca Equities Rule 8.200, Commentary .02). *See also,* Securities Exchange Act Release No. 58968 (November 17, 2008), 73 FR 71082 (November 24, 2008) (SR–NYSEArca–2008–111) (Order Granting Accelerated Approval of Proposed Rule Change to Amend NYSE Arca Equities Rule 5.2(j)(6)(v) in Order to Add the CBOE Volatility Index Futures to the Definition of Futures Reference Asset).

[7] *See, e.g.,* Securities Exchange Act Release Nos. 58457 (September 3, 2008), 73 FR 52711 (September 10, 2008) (SR–NYSEArca–2008–91) (order granting accelerated approval to list on NYSE Arca of 14 ProShares funds); 63610 (December 27, 2010), 76 FR 199 (January 3, 2011) (SR–NYSEArca–2010–101) (order approving listing and trading of the ProShares VIX Short-Term Futures ETF and the ProShares VIX Mid-Term Futures ETF). *See also* Securities Exchange Act Release No. 58968 (November 17, 2008), 73 FR 71082 (November 24, 2008) (SR–NYSEArca–2008–111) (order granting accelerated approval of proposed rule change to amend NYSE Arca Equities Rule 5.2(j)(6)(v) to add VIX Futures to the definition of Futures Reference Asset.

[8] *See* Securities Exchange Act Release No. 79975 (February 6, 2017), 82 FR 10418 (February 10, 2017) (SR–NYSEArca–2017–08) (Notice of Filing and Immediate Effectiveness to Amend NYSE Arca Equities Rule 5.2(j)(6)(v) to Add EURO STOXX 50 Volatility Futures to the Definition of Futures Reference Asset in Rule 5.2(j)(6)).

[9] *See* Securities Exchange Act Release No. 82066 (November 13, 2017), 82 FR 54434 (November 17, 2017) (SR–NYSEArca–2017–85) (Notice of Filing of Amendment No. 3, and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 3, to Amend NYSE Arca Rule 8.700–E and to List and Trade Shares of the ProShares European Volatility Futures ETF).

VIX Futures and/or swaps on VIX in all trading sessions and to deter and detect violations of Exchange rules.

The VIX Index

The information in this filing relating to the VIX Index was taken from the website of the Cboe Futures Exchange (the ''CFE'') and from the Registration Statement.

The VIX Index is an up-to-the-minute market estimate of expected volatility that is calculated by using real-time prices of options on the S&P 500® Index listed on Cboe Exchange, Inc. (''Cboe'') (''Cboe Options'') (Symbol: SPX). The VIX Index is designed to reflect investors' consensus view of future (30-day) expected stock market volatility. Only SPX options with Friday expirations are used to calculate the VIX Index. The VIX Index is calculated between 2:15 a.m. Central Time (''C.T.'') and 8:15 a.m. C.T. and between 8:30 a.m. C.T. and 3:15 p.m. C.T. The VIX Index is calculated by using the midpoints of real-time SPX option bid/ask quotes. Only SPX options with more than 23 days and less than 37 days to the Friday SPX expiration are used to calculate the VIX Index. These SPX options are then weighted to yield a constant, 30-day measure of the expected volatility of the S&P 500 Index.

VIX levels are calculated by Cboe and disseminated at 15-second intervals to market information vendors via the Options Price Reporting Authority (''OPRA'').

VIX Futures

The information in this filing relating to VIX Futures was taken from the CFE website and from the Registration Statement.

The CFE began listing and trading VIX Futures on March 26, 2004 under the ticker symbol VX. VIX Futures reflect the market's estimate of the value of the VIX Index on various expiration dates in the future. According to the Registration Statement, the value of a VIX Futures Contract is based on the expected reading of the VIX Index at the expiration of such VIX Futures, and therefore represents forward implied volatility of the S&P 500 over the 30-day period following the expiration of the VIX Futures. As a result, a movement in the VIX Index today will not necessarily result in a corresponding movement in the price of VIX Futures.

VIX Futures, which trade only on CFE, trade between the hours of 8:30 a.m.–3:15 p.m. C.T. The CFE is a member of the Intermarket Surveillance Group (''ISG'').

Monthly and weekly expirations in VIX Futures are available and trade nearly 24 hours a day, five days a week. VIX Weekly futures began trading on CFE in 2015.

The monthly volume and open interest (number of contracts) as of the last day of each month (November 2018 through April 2019) for VIX Futures was as follows:

	Monthly volume	Open interest
Nov–18	5,602,563	9,704,691
Dec–18	6,127,137	8,120,281
Jan–19	4,896,371	7,605,976
Feb–19	3,793,922	6,880,121
Mar–19	5,294,713	7,419,836
Apr–19	4,524,300	8,875,583

Dynamic Short Short-Term Volatility Futures ETF

The Exchange proposes to list and trade the Shares of the Fund under proposed amended NYSE Arca Rule 8.700–E. Dynamic Shares LLC will serve as the Trust's sponsor (''Sponsor''), and will serve as its commodity pool operator upon its registration with the Commodity Futures Trading Commission (''CFTC''), which will be prior to the effectiveness of the Registration Statement. Wilmington Trust Company is the sole ''Trustee'' of the Trust. The Nottingham Company will be the ''Administrator'' for the Fund. Nottingham Shareholder Services, LLC will serve as the ''Transfer Agent'' for the Fund for ''Authorized Participants.'' Capital Investment Group, Inc. will serve as the ''Distributor'' for the Fund.

The Sponsor will be registered as a commodity pool operator and is not registered or affiliated with a broker-dealer. In the event (a) the Sponsor becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new sponsor is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the Disclosed Portfolio (as defined in NYSE Arca Rule 8.700–E(c)(2)), and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

According to the Registration Statement, the Fund will seek to provide investors with inverse exposure to the implied volatility of the broad-based, large-cap U.S. equity market. Such exposure will be for one full trading day. The Fund will seek to achieve its investment objective, under normal market conditions,[10] by obtaining investment exposure to an actively managed portfolio of short positions in VIX Futures Contracts with monthly expirations.

The Fund expects to primarily take short positions in VIX Futures by shorting the next two near term VIX Futures and rolling the nearest month VIX Futures Contract to the next month on a daily basis. As such, the Fund expects to have a constant one-month rolling short position in first and second month VIX Futures.

The Fund also may hold cash and cash equivalents, including U.S. Treasury securities.[11]

The Fund will seek to dynamically manage its notional exposure to VIX Futures. For instance, when the VIX Index is below its historical average, the Fund's notional exposure will be lower than a traditional short VIX short term futures ETF, which may maintain a fixed notional exposure every day.

When the VIX Index is going up, the Fund will gradually increase its notional exposure, up to a ceiling of −0.5 times its net asset value (''NAV''). The Fund expects that its notional exposure will not exceed −0.5 times its NAV, but that its notional exposure may exceed −0.5 times its NAV during intraday trading before recalibration (as described further below).

The Fund will be actively managed and is not benchmarked to the VIX Index. As such, according to the Registration Statement, the Fund can be expected to perform very differently from the inverse of the VIX Index. The Fund does not seek to track the performance of the VIX Index or the S&P 500® and can be expected to perform very differently from the VIX Index over all periods of time.

According to the Registration Statement, the Fund will experience positive or negative performance based

[10] The term ''normal market conditions'' is defined in NYSE Arca Rule 8.600–E(c)(5).

[11] For purposes of this filing, cash equivalents are the following short-term instruments: (i) U.S. Government securities, including bills, notes and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. Government agencies or instrumentalities; (ii) certificates of deposit issued against funds deposited in a bank or savings and loan association; (iii) bankers' acceptances, which are short-term credit instruments used to finance commercial transactions; (iv) repurchase agreements and reverse repurchase agreements; (v) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; (vi) commercial paper, which are short-term unsecured promissory notes; and (vii) money market funds.

on changes in the implied level of future market volatility to the extent these changes are reflected in the price of VIX Futures Contracts. The Fund generally will experience positive performance, before accounting for fees and expenses, to the extent that the implied level of future volatility, as reflected by the value of the Fund's short position in VIX Futures Contracts, decreases. Similarly, the Fund generally will experience negative performance, before accounting for fees and expenses, to the extent that the implied level of future volatility increases.

According to the Registration Statement, at the close of each trading day, the Fund expects to recalibrate its notional exposure value upon the change of the VIX Index and contango on that day.[12] The Fund expects its notional exposure to range from −0.1 to −0.5 after each calibration. Movements of the VIX Futures during the day will affect whether the Fund's portfolio needs to be repositioned. For example, if the levels of the VIX Futures have risen on a given day, net assets of the Fund should fall. As a result of the calibration, the Fund's inverse exposure will generally increase to a level not beyond −0.5. Conversely, if the levels of the VIX Futures have fallen on a given day, net assets of the Fund should rise. As a result of the calibration, the Fund's inverse exposure will generally decrease to as low as −0.1.

In seeking to achieve the Fund's investment objective, the Sponsor uses a proprietary algorithm, which learns from VIX Futures historical prices and contango trend, to optimize VIX Futures trading risks and returns. The algorithm starts with a relatively low notional exposure (−0.1 to −0.15) and recalibrates its notional exposure upon the change of price and contango of VIX Futures. The Sponsor expects the algorithm to slightly increase the Fund's notional exposure when the price of VIX Futures go up to a level not beyond −0.5, and, when the price of VIX Futures goes down, the Sponsor expects the algorithm to decrease the Fund's notional exposure to lower levels to prepare for potential upcoming spikes in the price of VIX Futures. In the event that the Fund's notional exposure has already reached −0.5 and the price of VIX Futures increases, the Fund expects to maintain its notional exposure at −0.5 at the close of each trading day. Conversely, if the price of VIX Futures decreases when the Fund's notional exposure is below −0.1, the Fund expects to maintain its notional exposure at −0.1 when calibrating its notional exposure.

According to the Registration Statement, the pursuit of the Fund's daily investment objective means that the Fund's return for a period longer than a full trading day will be the product of the series of daily returns, with daily repositioned exposure, for each trading day during the relevant period. As a consequence, the return for investors that invest for periods less than a full trading day or for a period different than a trading day will not be the product of the return of the Fund's stated daily inverse investment objective.

Creation and Redemption Transactions

According to the Registration Statement, ''Authorized Participants'' may purchase (*i.e.,* create) or redeem Shares only in blocks of 50,000 Shares (each such block, a ''Creation Unit'') in the Fund. An Authorized Participant is an entity that has entered into an Authorized Participant Agreement with the Trust and the Sponsor. Creation Units are offered to Authorized Participants at the Fund's NAV. The size of a Creation Unit is subject to change.

A creation transaction generally takes place when an Authorized Participant deposits a specified amount of cash in exchange for a specified number of Creation Units. Similarly, Shares generally can be redeemed only in Creation Units, generally for cash. The prices at which creations and redemptions occur are based on the next calculation of NAV after an order is received in proper form. By placing a purchase order, an Authorized Participant agrees to deposit cash (unless as provided otherwise in the Registration Statement) with the ''Custodian.'' Creation and redemption transactions must be placed each day with the Distributor by the create/redeem cutoff time (generally 2:00 p.m., E.T.) to receive that day's NAV.

On any Business Day, an Authorized Participant may place an order with the Distributor to create one or more Creation Units. For purposes of processing both purchase and redemption orders, a ''Business Day'' means any day on which the NAV of the Fund is determined.

Purchase orders must be placed by the cutoff time of 2:00 p.m., E.T. The cut-off time may be earlier if, for example, the Exchange or other exchange material to the valuation or operation of the Fund closes before the cut-off time.

The total payment required to create each Creation Unit is the NAV of the Shares required for such Creation Unit on the purchase order date plus the applicable transaction fee.

Delivery of Cash

Cash required for settlement will typically be transferred to the Custodian through: (1) The Continuous Net Settlement (''CNS'') clearing process of the National Securities Clearing Corporation (''NSCC''), as such processes have been enhanced to effect creations and redemptions of Creation Units; or (2) the facilities of the Depository Trust Company (''DTC'') on a Delivery Versus Payment (''DVP'') basis, which is the procedure in which the buyer's payment for securities is due at the time of delivery. The Sponsor reserves the right to extend the deadline for the Custodian to receive the cash required for settlement up to the second Business Day following the purchase order date (T+2). The Creation Units will be delivered to the Authorized Participant upon the Custodian's receipt of the purchase amount.

Delivery of Exchange of Futures Contract for Related Position (''EFCRP'') Futures

Contracts or Block Trades

If the Sponsor shall have determined to permit the Authorized Participant to transfer VIX Futures pursuant to an EFCRP or to engage in a block trade purchase of futures contracts from the Authorized Participant with respect to the Fund, as well as to deliver cash, in the creation process, VIX Futures required for settlement must be transferred directly to the Fund's account at its futures commission merchant. The Creation Units will be delivered to the Authorized Participant

[12] According to the Registration Statement, the contractual obligations of a buyer or seller holding a futures contract to expiration may generally be satisfied by taking or making physical delivery of the underlying reference asset or settling in cash as designated in the contract specifications. Alternatively, futures contracts may be closed out prior to expiration by making an offsetting sale or purchase of an identical futures contract on the same or linked exchange before the designated date of delivery. Once this date is reached, the futures contract ''expires.'' As the futures contracts held by the Fund near expiration, they are generally closed out and replaced by contracts with a later expiration. This process is referred to as ''rolling.'' When the market for these contracts is such that the prices are higher in the more distant delivery months than in the nearer delivery months, the sale during the course of the ''rolling process'' of the more nearby contract would take place at a price that is lower than the price of the more distant contract. This pattern of higher future prices for longer expiration futures contracts is often referred to as ''contango.'' Alternatively, when the market for these contracts is such that the prices are higher in the nearer months than in the more distant months, the sale during the course of the ''rolling process'' of the more nearby contract would take place at a price that is higher than the price of the more distant contract. This pattern of higher future prices of shorter expiration futures contracts is referred to as ''backwardation.''

upon the Custodian's receipt of the cash purchase amount and the VIX Futures.

Redemption Procedures

According to the Registration Statement, the procedures by which an Authorized Participant can redeem one or more Creation Units mirror the procedures for the creation of Creation Units. On any Business Day, an Authorized Participant may place an order with the Distributor to redeem one or more Creation Units. A redemption order must be received prior to applicable cutoff time (generally 2:00 p.m., E.T.).

By placing a redemption order, an Authorized Participant agrees to deliver the Creation Units to be redeemed through DTC's book-entry system to the Fund not later than noon E.T. on the first Business Day immediately following the redemption order date (T+1). The Sponsor reserves the right to extend the deadline for the Fund to receive the Creation Units required for settlement up to the second Business Day following the redemption order date (T+2).

The redemption proceeds from the Fund will consist of the cash redemption amount and, if permitted by the Sponsor in its sole discretion with respect to the Fund, an EFCRP or block trade with the Fund. The cash redemption amount is equal to the NAV of the number of Creation Unit(s) of the Fund requested in the Authorized Participant's redemption order as of the time of the calculation of the Fund's NAV on the redemption order date, less transaction fees and any amounts attributable to any applicable EFCRP or block trade.

The redemption proceeds due from the Fund will be delivered to the Authorized Participant at noon E.T. on the third Business Day immediately following the redemption order date if, by such time on such Business Day immediately following the redemption order date, the Fund's DTC account has been credited with the Creation Units to be redeemed.

Net Asset Value

The NAV per Share of the Fund will be computed by dividing the value of the net assets of the Fund by its total number of Shares outstanding. Expenses and fees are accrued daily and taken into account for purposes of determining NAV. The Fund's NAV is calculated on each day other than a day when the Exchange is closed for regular trading. The Fund will compute its NAV once each trading day (the ''NAV Calculation Time''), or an earlier time set forth on the Trust's website (*www.dynamicsharesetf.com*). The Fund's website will be operable prior to commencement of Exchange trading of the Shares. The NAV Calculation Time is 4:15 p.m., E.T.

VIX Futures prices are calculated at their then current market value, which typically is based upon the settlement price or the last traded price before the NAV time for that particular futures contract.

In certain circumstances (*e.g.,* if the Sponsor believes market quotations do not accurately reflect the fair value of a Fund investment, or a trading halt closes an exchange or market early), the Sponsor may, in its sole discretion, choose to determine a fair value price as the basis for determining the market value of such position for such day. Such fair value prices would generally be determined based on available inputs about the current underlying reference assets and would be based on principles that the Sponsor deems fair and equitable.

Indicative Optimized Portfolio Value (''IOPV'')

According to the Registration Statement, the IOPV is an indicator of the value of the Fund's net assets at the time the IOPV is disseminated. The IOPV is calculated and disseminated every 15 seconds throughout the trading day. The IOPV is generally calculated using the prior day's closing net assets of the Fund as a base and updating throughout the trading day changes in the value of the financial instruments held by the Fund.

The IOPV will be disseminated by the Exchange or a major market data vendor. In addition, the IOPV is published on the NYSE Arca's website and is available through on-line information services such as Bloomberg Finance L.P. and Reuters.

Availability of Information

The Trust's website, *www.dynamicsharesetf.com,* which will be publicly accessible at no charge, will contain the following information: (a) The daily NAV of the Trust, the daily NAV per Share, the prior Business Day's NAV per Share, the reported daily closing price and the reported daily trading volume; (b) the daily composition of the Disclosed Portfolio, as defined in NYSE Arca Rule 8.700–E (c)(2) [13]; (c) the midpoint of the bid-ask price as of the time the NAV per Share is calculated (the ''Bid-Ask Price''); (d) the calculation of the premium or discount of such price against such NAV per Share; (e) data in chart form displaying the frequency distribution of discounts or premiums of the bid-ask price against the NAV per Share, within appropriate ranges for each of the four previous calendar quarters; and (f) the current prospectus of the Trust, included in the Registration Statement.

On a daily basis, the Trust will disclose on its website for all of the assets held by the Fund the following information: Name; ticker symbol (if applicable); CUSIP or other identifier (if applicable); description of the holding; with respect to derivatives, the identity of the security, commodity, index or other underlying asset; the quantity or aggregate amount of the holding as measured by par value, notional value or amount, number of contracts or number of units (if applicable); maturity date; coupon rate (if applicable); effective date or issue date (if applicable); market value; percentage weighting in the Disclosed Portfolio; and expiration date (if applicable). The website information will be publicly available at no charge.

As noted above, the Trust's NAV and the NAV per Share will be calculated and disseminated daily after the close of the New York Stock Exchange (normally 4:00 p.m., E.T.).[14] The Exchange will disseminate for the Trust on a daily basis by means of the Consolidated Tape Association (the ''CTA'') high-speed line information with respect to the most recent NAV per Share, and the number of Shares outstanding. The Exchange also will make available on its website daily trading volume, closing prices and the NAV per Share.

Pricing for VIX is available from major market data vendors. Pricing for VIX Futures is available from CFE and from major market data vendors. Pricing for Cboe Options is available from Cboe and from major market data vendors. Price information for cash equivalents is available from major market data vendors.

The IOPV will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session (as defined in NYSE Arca Rule 7.34–E).[15]

[13] NYSE Arca Rule 8.700–E(c)(2) provides that the term ''Disclosed Portfolio'' means ''the identities and quantities of the securities and other assets held by the Trust that will form the basis for the Trust's calculation of net asset value at the end of the business day''.

[14] The Exchange will obtain a representation from the Trust that the NAV and the NAV per Share will be calculated daily and that the NAV, the NAV per Share and the composition of the Disclosed Portfolio will be made available to all market participants at the same time.

[15] Currently, it is the Exchange's understanding that several major market data vendors widely disseminate IOPVs taken from the CTA high-speed line or other data feeds.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. The previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available via the CTA high-speed line.

Impact on Arbitrage Mechanism

The Sponsor believes there will be minimal, if any, impact to the arbitrage mechanism as a result of the use of derivatives. Market makers and participants should be able to value derivatives as long as the positions are disclosed with relevant information. The Sponsor believes that the price at which Shares trade will continue to be disciplined by arbitrage opportunities created by the ability to purchase or redeem Shares at their NAV, which should help ensure that Shares will not trade at a material discount or premium in relation to their NAV.

The Sponsor does not believe there will be any significant impacts to the settlement or operational aspects of the Fund's arbitrage mechanism due to the use of derivatives.

Criteria for Initial and Continued Listing

The Trust will be subject to the criteria in NYSE Arca Rule 8.700–E for initial and continued listing of the Shares.

The minimum number of Shares to be outstanding at the start of trading will be 100,000 Shares. The Exchange believes that this minimum number of Shares to be outstanding at the start of trading is sufficient to provide adequate market liquidity. The Exchange represents that, for the initial and continued listing of the Shares, the Trust must be in compliance with NYSE Arca Rule 5.3–E and Rule 10A–3 under the Exchange Act.[16]

Trading Rules

Under NYSE Arca Rule 8.700–E(b), Managed Trust Securities are included within the Exchange's definition of ''securities.'' The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Commentary .02 to NYSE Arca Rule 8.700–E provides that transactions in Managed Trust Securities will occur during the trading hours specified in NYSE Arca Rule 7.34–E. Therefore, in accordance with NYSE Arca Rule 7.34–E, the Shares will trade on the NYSE Arca Marketplace from 4:00 a.m. to 8:00 p.m. E.T. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Rule 7.6–E, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading in the Shares will be halted if the circuit breaker parameters under NYSE Arca Rule 7.12–E are reached. Trading may also be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

In addition, if the Exchange becomes aware that the NAV, the NAV per Share and/or the Disclosed Portfolio with respect to a series of Managed Trust Securities is not disseminated to all market participants at the same time, it will halt trading in such series until such time as the NAV, the NAV per Share and the Disclosed Portfolio is available to all market participants.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[17] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and VIX Futures with other markets or other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares and VIX Futures from such markets or entities. In addition, the Exchange may obtain information regarding trading in the Shares and VIX Futures from markets or other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement (''CSSA'').[18] FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain cash equivalents held by the Fund reported to FINRA's Trade Reporting and Compliance Engine (''TRACE'').

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

All statements and representations made in this filing regarding (a) the description of the portfolio of the Fund, (b) limitations on portfolio of the Fund, or (c) the applicability of Exchange listing rules specified in this rule filing shall constitute continued listing requirements for listing the Shares on the Exchange.

The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5–E (m).

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares (and that Shares are not individually redeemable); (2)

[16] 17 CFR 240.10A–3.

[17] FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[18] For a list of the current members of ISG, *see www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a CSSA.

NYSE Arca Rule 9.2–E (a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (4) how information regarding the IOPV and the Disclosed Portfolio is disseminated; (5) the risks involved in trading the Shares during the opening and late trading sessions when an updated IOPV will not be calculated or publicly disseminated; and (6) trading information.

In addition, the Bulletin will reference that the Trust is subject to various fees and expenses described in the Registration Statement.

The Bulletin also will reference the fact that there is no regulated source of last sale information regarding certain of the asset classes that the Trust may hold and that the Commission has no jurisdiction over the trading of VIX Futures.

The Bulletin also will discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

2. Statutory Basis

The basis under the Exchange Act for this proposed rule change is the requirement under Section 6(b)(5) [19] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed amendment to Rule 8.700–E(c)(1) to add VIX Futures Contracts and/or swaps on VIX to the financial instruments in which an issue of Managed Trust Securities may hold long and/or short positions will provide investors with the ability to better diversify and hedge their portfolios using an exchange traded security without having to trade directly in the underlying VIX Futures Contracts, and will facilitate the listing and trading on the Exchange of additional Managed Trust Securities that will enhance competition among market participants, to the benefit of investors and the marketplace.

As noted above, the Commission previously has (1) approved the listing and trading of options on the VIX,[20] (2) approved an amendment to NYSE Arca Rule 5.2–E(j)(6) to add VIX Futures to the definition of Futures Reference Assets applicable to ''Futures-Linked Securities,'' [21] (3) approved listing and trading on the Exchange of series of Trust Issued Receipts that invest in VIX Futures,[22] (4) issued a notice of effectiveness regarding amendments to NYSE Arca Rule 5.2–E(j)(6)(v) to add futures on VSTOXX (another index referencing market volatility) as a ''Futures Reference Asset'' underlying an issue of ''Futures-Linked Securities'' [23], and (5) approved an amendment to NYSE Arca Rule 8.700–E to add the VSTOXX as a reference asset to the futures contracts and swaps that may be held by trusts that issue Managed Trust Securities.[24]

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices because the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.700–E. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The NAV of the Trust, the NAV per Share and the Disclosed Portfolio will be disseminated to all market participants at the same time. The Trust will provide website disclosure of portfolio holdings daily. The IOPV per Share (quoted in U.S. dollars) will be widely disseminated at least every 15 seconds during the Exchange's Core Trading Session by major market data vendors. Pricing for the Index and VIX are available from major market data vendors. Pricing for VIX Futures and VIX Options will be available from the CFE and Cboe, respectively. Price information for cash equivalents will be available from major market data vendors. Quotation and last-sale information regarding the Shares will be disseminated through the CTA high-speed line.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest given that a large amount of information will be publicly available regarding the Trust and the Shares, thereby promoting market transparency. The Exchange may halt trading during the day in which an interruption to the dissemination of the IOPV occurs, or the value of the underlying VIX Futures occurs. If the interruption to the dissemination of the IOPV or the value of the underlying VIX Futures persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. If the Exchange becomes aware that the NAV, the NAV per Share and the Disclosed Portfolio with respect to a series of Managed Trust Securities are not disseminated to all market participants at the same time, it will halt trading in such series until such time as the NAV, the NAV per Share and the Disclosed Portfolio are available to all market participants. Trading in Shares of the Trust will be halted if the circuit breaker parameters under NYSE Arca Rule 7.12–E have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Moreover, prior to the commencement of trading, the Exchange will inform its ETP Holders in the Bulletin of the special characteristics and risks associated with trading the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest given that it will facilitate the listing and trading of an additional type of exchange-traded product that will principally hold futures contracts and that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information relating to trading in the Shares and VIX Futures from other exchanges that are members of the ISG or with which the Exchange has entered into a CSSA. In addition, as noted above, investors will have ready access to information regarding the IOPV and quotation and last sale information for the Shares.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will principally hold VIX Futures, and that will enhance competition among market participants, to the benefit of investors and the marketplace.

[19] 15 U.S.C. 78f(b)(5).

[20] *See* note 5, *supra.*

[21] *See* note 6, *supra.*

[22] *See* note 7, *supra.*

[23] *See* note 8, *supra.*

[24] *See* note 9, *supra.*

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or *up to 90 days* (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2019–55 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–2019–55. 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–2019–55 and should be submitted on or before September16, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–18270 Filed 8–23–19; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86713; File No. SR–OCC–2019–804]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of No Objection To Advance Notice Related to The Options Clearing Corporation's Vanilla Option Model and Smoothing Algorithm

August 20, 2019.

I. Introduction

On June 28, 2019, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') advance notice SR–OCC–2019–804 (''Advance Notice'') pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled Payment, Clearing and Settlement Supervision Act of 2010 (''Clearing Supervision Act'') [1] and Rule 19b–4(n)(1)(i) [2] under the Securities Exchange Act of 1934 (''Exchange Act'') [3] to propose changes to its margin methodology regarding the estimation of prices for listed options contracts.[4] The Advance Notice was published for public comment in the **Federal Register** on July 31, 2019,[5] and the Commission has received no comments regarding the changes proposed in the Advance Notice.[6] This publication serves as notice of no objection to the Advance Notice.

II. Background

The System for Theoretical Analysis and Numerical Simulations (''STANS'') is OCC's methodology for calculating margin requirements. STANS margin requirements are driven by several components, each reflecting a different aspect of risk. Two primary components of STANS are the models that OCC uses to (1) generate theoretical values, implied volatilities, and certain risk sensitivities for plain vanilla listed options (the ''Vanilla Option Model''); [7] and (2) estimate fair prices of listed option contracts based on their bid and ask price quotes (the ''Smoothing Algorithm'').[8] The changes proposed in the Advance Notice are designed to address five limitations of the current Vanilla Option Model and five limitations of the current Smoothing Algorithm.

A. Vanilla Option Model

OCC relies on the Vanilla Option Model to generate theoretical values,

[25] 17 CFR 200.30–3(a)(12).

[1] 12 U.S.C. 5465(e)(1).

[2] 17 CFR 240.19b–4(n)(1)(i).

[3] 15 U.S.C. 78a *et seq.*

[4] *See* Notice of Filing *infra* note 5, at 84 FR 37373.

[5] Securities Exchange Act Release No. 86488 (Jul. 26, 2019), 84 FR 37373 (Jul. 31, 2019) (SR–OCC–2019–804) (''Notice of Filing''). On June 28, 2019, OCC also filed a related proposed rule change (SR–OCC–2019–005) with the Commission pursuant to Section 19(b)(1) of the Exchange Act and Rule 19b–4 thereunder (''Proposed Rule Change''). 15 U.S.C. 78s(b)(1) and 17 CFR 240.19b–4, respectively. In the Proposed Rule Change, which was published in the **Federal Register** on July 9, 2019, OCC seeks approval of proposed changes to its rules necessary to implement the Advance Notice. Securities Exchange Act Release No. 86296 (July 3, 2019), 84 FR 32821 (July 9, 2019). The comment period for the related Proposed Rule Change filing closed on July 30, 2019.

[6] Since the proposal contained in the Advance Notice was also filed as a proposed rule change, all public comments received on the proposal are considered regardless of whether the comments are submitted on the proposed rule change or the Advance Notice.

[7] Plain vanilla listed options are commonly understood to encompass options with standardized terms (*e.g.,* a predetermined strike price, classification as a call vs. put) and settlement structures (*e.g.,* American-style, European-style). As described in the Notice of Filing, the Vanilla Option Model is designed to address such options, including (1) all listed vanilla European and American options on exchange traded funds and exchange traded notes (collectively, ''ETPs''), equities, equity indices, futures on equity indices, currencies or commodities, and (2) vanilla flexible exchange options (''vanilla FLEX options''). *See* Notice of Filing, 84 FR at 37373, n. 8. As of the time of filing, plain vanilla options accounted for approximately 95 percent of the total contracts cleared by OCC. *See id.*

[8] OCC uses the Smoothing Algorithm to estimate prices on all plain vanilla listed options included in the Vanilla Option Model, as well as options on non-equity securities (*e.g.,* the Cboe Volatility Index). *See* Notice of Filing, 84 FR at 37374.

implied volatilities, and risk sensitivities for plain vanilla listed options. The theoretical values that OCC generates with the Vanilla Option Model are the estimated values (as opposed to current market prices) derived from algorithms that use a series of predetermined inputs.[9] Given the current market price of a plain vanilla option, OCC uses such algorithms to estimate the implied volatility of the option.[10] OCC uses the risk sensitivities that it calculates to measure potential changes in an option's price in relation to the asset underlying the option.[11] As discussed below, OCC proposes five changes to the Vanilla Option Model.

(1) Interest Rates

The Vanilla Option Model currently assumes that interest rates remain constant over time. OCC proposes to revise the Vanilla Option Model to account for changes in interest rates over the life of an option. To model such interest rate changes, OCC would rely on an interest rate curve based on LIBOR, Eurodollar futures, and swap-rates.

(2) Dividends

The Vanilla Option Model currently assumes constant dividends such that future dividends would be based on an issuer's last paid or announced dividend. OCC has acknowledged, however, that prior dividends are not always an accurate predictor of future dividends.[12] OCC proposes to use dividend forecasts obtained from a third-party service provider as an input to the Vanilla Option Model instead of relying on the issuer's last paid or announced dividend.

(3) Borrowing Costs

The Vanilla Option Model does not currently account for the costs that may be incurred by an option buyer or seller who must borrow the security underlying an option (*i.e.,* ''Borrowing Costs''). OCC has acknowledged that the failure to incorporate Borrowing Costs could cause OCC to model implied volatilities inconsistently across puts and calls with the same strike and tenor.[13] OCC proposes to calculate Borrowing Costs based on the market prices of options and futures, and to use such Borrowing Costs as an input of the Vanilla Option Model.

(4) Binomial Tree

As noted above, the Vanilla Option Model uses the JR binomial tree to generate theoretical values for American-style options. OCC has acknowledged, however, that the Leisen Reimer (''LR'') binomial tree has a higher rate of convergence than the JR tree.[14] OCC proposes to replace the JR binomial tree with the LR binomial tree in the Vanilla Option Model.

Further, the Vanilla Option Model employs a fixed number of steps in the JR binomial tree. OCC has acknowledged that the current number of steps is insufficient for accurately evaluating long-dated options.[15] OCC proposes to introduce a variable number of steps in the LR binomial tree. As proposed, the minimum number of steps in the LR binomial tree would be greater than the current fixed number of steps in the JR binomial tree that is currently used by the Vanilla Option Model.

(5) Risk Sensitivities

OCC currently uses the Vanilla Option Model to calculate three risk sensitivities: Delta, Gamma, and Vega. OCC stated that the Vanilla Option Model does not currently calculate Theta or Rho.[16] OCC proposes to use the Vanilla Option Model to calculate Theta and Rho while continuing to calculate Delta, Gamma, and Vega.

B. Smoothing Algorithm

The Smoothing Algorithm is a four-step process that OCC uses to estimate fair values for plain vanilla listed options based on closing bid and ask price quotes. First, OCC filters out certain, poor-quality price quotes.[17] Second, OCC estimates the forward prices of the securities underlying the options. Third, OCC generates theoretical option prices based on bid and ask quotes and the forward prices estimated in the previous step.[18] Finally, as described in the Notice of Filing, OCC constructs a volatility surface based on the smoothed prices from the prior steps, and uses that surface to approximate prices for contracts that were filtered out in the Smoothing Algorithm's first step.[19] As discussed below, OCC proposes to make five changes to the Smoothing Algorithm.

(1) Model Inconsistencies

Currently, the Smoothing Algorithm uses the LR binomial tree as part of the price smoothing process. As discussed above, the Vanilla Option Model currently uses the JR binomial tree. OCC has acknowledged that the inconsistency between the Vanilla Option Model and the Smoothing Algorithm could result in violations of put and call parity in OCC's margin calculations.[20] The proposal to replace the JR binomial tree with the LR binomial tree in the Vanilla Option Model would resolve the inconsistency between the Vanilla Option Model and the Smoothing Algorithm.

(2) Theoretical Spot Prices

As noted above, the Smoothing Algorithm estimates the forward prices of securities underlying options, and uses the estimated forward prices to generate theoretical option prices. The estimation of forward prices relies, in part, on spot prices. Currently, the Smoothing Algorithm approximates spot prices for indices underlying options (*i.e.,* theoretical spot prices) based on the prices of related index futures observed prior to the close of the futures markets. The relevant futures markets close at 3:15 p.m. Central Time; however, the markets for the underlying indices close at 3 p.m. Central Time. OCC has acknowledged that this difference in closing times could result in poorly smoothed prices whenever options trading between 3:00 p.m. and 3:15 p.m. is volatile, which could result in problems in OCC's margin calculations.[21] OCC proposes, for the

[9] For example, OCC generates theoretical values for American style options using a modified Jarrow-Rudd (''JR'') binomial tree.

[10] The implied volatility of an option is a measure of the expected future volatility of the option's underlying security at expiration, which is reflected in the current option premium in the market.

[11] OCC uses the Vanilla Option Model to calculate Delta, Gamma, and Vega. Delta measures the change in the price of an option with respect to a change in the price of an underlying asset. Gamma measures the change in Delta in response to a 1 percent change in the price of the underlying asset. Vega measures the change in the price of an option corresponding to a 1 percent change in the underlying asset's volatility.

[12] *See* Notice of Filing, 84 FR at 37374–75.

[13] *See* Notice of Filing, 84 FR at 37375.

[14] *See id.*

[15] *See id.*

[16] *See id.* Theta is a measurement of the relationship between an option's price and remaining time to expiration. Rho is a measurement of the relationship between an option's price and changes in the risk-free rate.

[17] As described in the Notice of Filing, price quotes are excluded from the algorithm if they meet one or more of the following conditions: (i) Prices for options that expired or have a remaining maturity of less than a certain number of days, where that number is specified by a control parameter; (ii) prices for options that have only ''one-sided contracts'' (*i.e.,* contracts for which prices exist only for either the call or the put, but not for both); (iii) prices for options whose ask prices are zero; (iv) prices for options with negative bid and ask spreads; or (v) prices for any American options if the ask price is less than the intrinsic value of the option. *See* Notice of Filing, 84 FR at 37374, n. 12.

[18] OCC applies a series of constraints when generating such theoretical option prices based on the implied forward prices calculated in the Smooth Algorithm's second step.

[19] *See* Notice of Filing, 84 FR at 37374, n. 18.

[20] *See* Notice of Filing, 84 FR at 37375.

[21] *See id.*

purpose of calculating theoretical spot prices, to rely on basis futures [22] rather than index futures. The relevant markets for basis futures close at 3 p.m. Central Time, which aligns with the 3 p.m. close of the market for the underlying indices.

(3) Volatility Cap

As noted above, OCC uses the Smoothing Algorithm to construct a volatility surface based on theoretical option prices. The process for constructing such a volatility surface includes the application of certain restrictions to ensure that prices satisfy arbitrage-free conditions and bid and ask spread constraints. One such restriction involves capping unacceptably high volatilities. Currently, the Smoothing Algorithm imposes an abrupt cap on volatilities that causes the rate of change of volatility to change sharply at the point of the cap (*i.e.,* the current cap causes a sudden change in an otherwise gradual process). OCC has acknowledged that such a jump may create negative convexity of the option prices versus strike prices (*i.e.,* butterfly arbitrage opportunities).[23] OCC proposes to impose a more gradual process for constraining unacceptably high volatilities with the intention of eliminating opportunities for butterfly arbitrage.

(4) Short-Dated FLEX Options

Currently, the Smoothing Algorithm generates prices for short-dated FLEX options by combining current market prices with implied volatilities from the prior day. OCC has acknowledged that combining prices and implied volatilities from different days in this way may cause the Smoothing Algorithm to generate option prices that are inconsistent with current market prices.[24] OCC proposes to generate prices for short-dated FLEX options based on current market prices and the volatilities implied by such prices.[25]

(5) Borrowing Costs

Currently, the Smoothing Algorithm does not directly consider Borrowing Costs when estimating fair prices for listed options. OCC has acknowledged that the Smoothing Algorithm instead relies on implied dividends,[26] which can result in mispricing.[27] OCC proposes to use Borrowing Costs, implied from listed option prices, as an independent input into the Smoothing Algorithm.

III. Discussion and Commission Findings

Although the Clearing Supervision Act does not specify a standard of review for an advance notice, the stated purpose of the Clearing Supervision Act is instructive: To mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for systemically important financial market utilities (''SIFMUs'') and strengthening the liquidity of SIFMUs.[28]

Section 805(a)(2) of the Clearing Supervision Act [29] authorizes the Commission to prescribe regulations containing risk-management standards for the payment, clearing, and settlement activities of designated clearing entities engaged in designated activities for which the Commission is the supervisory agency. Section 805(b) of the Clearing Supervision Act [30] provides the following objectives and principles for the Commission's risk-management standards prescribed under Section 805(a):

- To promote robust risk management;
- to promote safety and soundness;
- to reduce systemic risks; and
- to support the stability of the broader financial system.

Section 805(c) provides, in addition, that the Commission's risk-management standards may address such areas as risk-management and default policies and procedures, among others areas.[31]

The Commission has adopted risk-management standards under Section 805(a)(2) of the Clearing Supervision Act and Section 17A of the Exchange Act (the ''Clearing Agency Rules'').[32] The Clearing Agency Rules require, among other things, each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to meet certain minimum requirements for its operations and risk-management practices on an ongoing basis.[33] As such, it is appropriate for the Commission to review advance notices against the Clearing Agency Rules and the objectives and principles of these risk management standards as described in Section 805(b) of the Clearing Supervision Act. As discussed below, the Commission believes the changes proposed in the Advance Notice are consistent with the objectives and principles described in Section 805(b) of the Clearing Supervision Act,[34] and in the Clearing Agency Rules, in particular Rule 17Ad–22(e)(6)(i) and (iii).[35]

A. Consistency With Section 805(b) of the Clearing Supervision Act

The Commission believes that the Advance Notice is consistent with the stated objectives and principles of Section 805(b) of the Clearing Supervision Act. The Commission believes that several of the proposed changes are consistent with the promotion of robust risk management as well as safety and soundness because they would address shortcomings in the assumptions underlying the Vanilla Option Model and the Smoothing Algorithm. The introduction of dynamic, rather than constant, interest rate and dividend data as inputs to the Vanilla Option Model would provide a more accurate representation of option market dynamics. Additionally, the use of basis futures, as opposed to index futures, to generate theoretical spot prices for indices underlying options could avoid problems in OCC's margin calculations arising from differences in market closing times. Similarly, the estimating prices for short-dated FLEX options based on price and implied volatility data from the same day (as opposed to different days) would better align with prices observed in the market. Further, the introduction of Borrowing Costs would allow OCC to account for a known cost not currently addressed in OCC's models. The Commission believes that the proposed changes described above would better align the Vanilla Option Model and the Smoothing Algorithm with the subject matter that they are designed to model.

[22] Basis futures prices represent the spreads between the prices of futures and the assets underlying those futures. OCC states that these spreads are relatively stable throughout the day, including between their closing at 3:00 p.m. and the closing of the related index options market at 3:15 p.m. *See id.*

[23] *See id.*

[24] *See id.*

[25] OCC is not proposing to change the Smoothing Algorithm's process regarding the generation of prices for long-dated FLEX options. *See* Notice of Filing, 84 FR at 37375, n. 29.

[26] Implied dividends are a combination of Borrowing Costs and dividends. *See* Notice of Filing, 84 FR at 37375, n. 30.

[27] *See id.*

[28] *See* 12 U.S.C. 5461(b).

[29] 12 U.S.C. 5464(a)(2).

[30] 12 U.S.C. 5464(b).

[31] 12 U.S.C. 5464(c).

[32] 17 CFR 240.17Ad–22. *See* Securities Exchange Act Release No. 68080 (October 22, 2012), 77 FR 66220 (November 2, 2012) (S7–08–11). *See also* Securities Exchange Act Release No. 78961 (September 28, 2016), 81 FR 70786 (October 13, 2016) (S7–03–14) (''Covered Clearing Agency Standards''). The Commission established an effective date of December 12, 2016 and a compliance date of April 11, 2017 for the Covered Clearing Agency Standards. OCC is a ''covered clearing agency'' as defined in Rule 17Ad–22(a)(5).

[33] 17 CFR 240.17Ad–22.

[34] 12 U.S.C. 5464(b).

[35] 17 CFR 240.17Ad–22(e)(6)(i) and (iii).

The Commission also believes that the changes proposed to address model design issues identified in the Vanilla Option Model and the Smoothing Algorithm would be consistent with the promotion of robust risk management as well as safety and soundness. As noted above, OCC proposes to change the way the Smoothing Algorithm addresses unacceptably high volatilities to ensure that theoretical option prices satisfy certain arbitrage-free conditions (*i.e.,* eliminating butterfly arbitrage opportunities). OCC also proposes to use the same binomial tree in both the Vanilla Option Model and the Smoothing Algorithm to enhance model consistency. The proposal to use a LR binomial tree with a variable number of steps, as opposed to the current fixed number of steps in a JR binomial tree, would allow the Vanilla Option Model to more accurately price long-dated options. Additionally, the move to the LR binomial tree would allow OCC to generate additional risk sensitivity data. Such data could allow OCC to better understand the risks present in Clearing Members' portfolios.

Further, the Commission believes that, given OCC's role as a SIFMU, the changes proposed by OCC are consistent with reducing systemic risk and supporting the stability of the broader financial system. The Vanilla Option Model and the Smoothing Algorithm are two of the fundamental components of OCC's margin methodology. Improving the accuracy and precision of these models would improve the accuracy and precision of OCC's margin calculations, and could give OCC a better understanding of the risks posed by its Clearing Members. Improving OCC's margin calculations and understanding of its exposures would facilitate OCC's ability to manage potential Clearing Member defaults. Accordingly, and for the reasons stated above, the Commission believes the changes proposed in the Advance Notice are consistent with Section 805(b) of the Clearing Supervision Act.[36]

B. Consistency With Rule 17Ad–22(e)(6)(i) Under the Exchange Act

Rule 17Ad–22(e)(6)(i) under the Exchange Act requires that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to cover, if the covered clearing agency provides central counterparty services, its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market.[37]

As discussed above, certain changes that OCC proposes would be designed to better align the assumptions underlying the Vanilla Option Model and the Smoothing Algorithm with the products to which they are applied as well as the related markets. The introduction of dynamic, rather than constant, interest rate and dividend data as inputs to the Vanilla Option Model would provide a more accurate representation of the particular attributes of options markets. The estimation of prices for short-dated FLEX options based on prices and implied volatilities from the same day (as opposed to different days) would better align with prices observed in the market. Additionally, accounting for Borrowing Costs would better align OCC's margin requirements with particular attributes of plain vanilla options by accounting for the costs facing options market participants. Further, the move to a LR binomial tree in the Vanilla Option Model would allow OCC to generate additional risk data relevant to the products that OCC clears. The Commission believes, therefore, that adoption of the proposed changes designed to align OCC's models assumptions with market dynamics are consistent with Exchange Act Rule 17Ad–22(e)(6)(i).[38]

C. Consistency With Rule 17Ad–22(e)(6)(iii) Under the Exchange Act

Rule 17Ad–22(e)(6)(iii) under the Exchange Act requires that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to cover, if the covered clearing agency provides central counterparty services, its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, calculates margin sufficient to cover its potential future exposure to participants in the interval between the last margin collection and the close out of positions following a participant default.[39]

As discussed above, certain changes that OCC proposes to make to the Vanilla Option Model and the Smoothing Algorithm would address model design issues. OCC proposes to change the way the Smoothing Algorithm addresses unacceptably high volatilities to ensure that theoretical option prices satisfy certain arbitrage-free conditions (*i.e.,* eliminating butterfly arbitrage opportunities). OCC also proposes to enhance model consistency by using the same binomial tree in both the Vanilla Option Model and the Smoothing Algorithm. Further, the proposal to replace the binomial tree's fixed number of steps with a variable number of steps would allow the Vanilla Option Model to more accurately price long-dated options. Finally, the use of basis futures, as opposed to index futures, to generate theoretical spot prices for indices underlying options could avoid problems in OCC's margin calculations arising from market volatility between 3:00 p.m. and 3:15 p.m.

The Commission believes that changes proposed to reduce model risk generally facilitate the effective functioning of the relevant models. The Vanilla Option Model and the Smoothing Algorithm estimate prices that OCC uses to set margin requirements. Better price estimates would allow OCC to better calculate margin sufficient to cover its potential future exposure to Clearing Members. The Commission believes, therefore, that adoption of the changes proposed to address design issues in OCC's margin methodology are consistent with Exchange Act Rule 17Ad–22(e)(6)(iii).[40]

IV. Conclusion

It is therefore noticed, pursuant to Section 806(e)(1)(I) of the Clearing Supervision Act, that the Commission *does not object* to Advance Notice (SR–OCC–2019–804) and that OCC is *authorized* to implement the proposed change as of the date of this notice or the date of an order by the Commission approving proposed rule change SR–OCC–2019–005, whichever is later.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–18260 Filed 8–23–19; 8:45 am]

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[36] 12 U.S.C. 5464(b).

[37] 17 CFR 240.17Ad–22(e)(6)(i).

[38] *Id.*

[39] 17 CFR 240.17Ad–22(e)(6)(iii).

[40] *Id.*

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33606; 812–14998]

New Age Alpha Advisors, LLC and New Age Alpha Trust

August 21, 2019.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application for an order under section 6(c) of the Investment

Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested order would permit (a) index-based series of certain open-end management investment companies (''Funds'') to issue shares redeemable in large aggregations (''Creation Units''); (b) secondary market transactions in Fund shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Funds (''Funds of Funds'') to acquire shares of the Funds.

APPLICANTS: New Age Alpha Advisors, LLC (the ''Initial Adviser''), a Delaware limited liability company registered as an investment adviser under the Investment Advisers Act of 1940 and New Age Alpha Trust (the ''Trust''), a Delaware statutory trust that intends to register under the Act as an open-end management investment company.

FILING DATES: The application was filed on January 14, 2019 and amended on June 27, 2019.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 16, 2019, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090; Applicants: New Age Alpha Advisors, LLC, New Age Alpha Trust, 411 Theodore Fremd Ave., Suite 206 South, Rye, New York 10580.

FOR FURTHER INFORMATION CONTACT: Deepak Pai, Senior Counsel, at (202) 551–6876, or Trace W. Rakestraw, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Summary of the Application

1. Applicants request an order that would allow Funds to operate as index exchange traded funds (''ETFs'').[1] Fund shares will be purchased and redeemed at their NAV in Creation Units. All orders to purchase Creation Units and all redemption requests will be placed by or through an ''Authorized Participant,'' which will have signed a participant agreement with the Distributor. Shares will be listed and traded individually on a national securities exchange, where share prices will be based on the current bid/offer market. Any order granting the requested relief would be subject to the terms and conditions stated in the application.

2. Each Fund will hold investment positions selected to correspond closely to the performance of an Underlying Index. In the case of Self-Indexing Funds, an affiliated person, as defined in section 2(a)(3) of the Act (''Affiliated Person''), or an affiliated person of an Affiliated Person (''Second-Tier Affiliate''), of the Trust or a Fund, of the Adviser, of any sub-adviser to or promoter of a Fund, or of the Distributor will create the Underlying Index.[2]

3. Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified in the application, purchasers will be required to purchase Creation Units by depositing specified instruments (''Deposit Instruments''), and shareholders redeeming their shares will receive specified instruments (''Redemption Instruments''). The Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions) except as specified in the application.

4. Because shares will not be individually redeemable, applicants request an exemption from section 5(a)(1) and section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue shares that are redeemable in Creation Units.

5. Applicants also request an exemption from section 22(d) of the Act and rule 22c–1 under the Act as secondary market trading in shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Applicants state that (a) secondary market trading in shares does not involve a Fund as a party and will not result in dilution of an investment in shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants represent that share market prices will be disciplined by arbitrage opportunities, which should prevent shares from trading at a material discount or premium from NAV.

6. With respect to Funds that effect creations and redemptions of Creation Units in kind and that are based on certain Underlying Indexes that include foreign securities, applicants request relief from the requirement imposed by section 22(e) in order to allow such

[1] Applicants request that the order apply to any series of the Trust and any other open-end management investment company or series thereof (''Funds''), each of which will operate as an ETF, and will track a specified index comprised of domestic and/or foreign equity securities and/or domestic and/or foreign fixed income securities (each, an ''Underlying Index''). Any Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each such entity and any successor thereto, an ''Adviser'') and (b) comply with the terms and conditions of the application. For purposes of the requested order, a ''successor'' is limited to an entity or entities that result from a reorganization into another jurisdiction or a change in the type of business organization.

[2] Each Self-Indexing Fund will post on its website the identities and quantities of the investment positions that will form the basis for the Fund's calculation of its NAV at the end of the day. Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will help address, together with other protections, conflicts of interest with respect to such Funds.

Funds to pay redemption proceeds within fifteen calendar days following the tender of Creation Units for redemption. Applicants assert that the requested relief would not be inconsistent with the spirit and intent of section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds.

7. Applicants request an exemption to permit Funds of Funds to acquire Fund shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act. The application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

8. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are Affiliated Persons, or Second Tier Affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions, and Deposit Instruments and Redemption Instruments will be valued in the same manner as those investment positions currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its shares to and redeem its shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[3] The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the policies of the Fund of Funds and will be based on the NAVs of the Funds.

9. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Jill M. Peterson,

Assistant Secretary.

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[3] The requested relief would apply to direct sales of shares in Creation Units by a Fund to a Fund of Funds and redemptions of those shares. Applicants, moreover, are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an Affiliated Person, or a Second-Tier Affiliate, of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86709; File No. SR–NYSECHX–2019–08]

Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing of Proposed Rule Change for Trading Rules To Support the Transition of Trading to the Pillar Trading Platform

August 20, 2019.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on August 6, 2019, the NYSE Chicago, Inc. (''NYSE Chicago'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to trading rules to support the transition of trading to the Pillar trading platform. The proposed change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes trading rules to support the transition of its trading platform to Pillar, which is an integrated trading technology platform designed to use a single specification for connecting to the equities and options markets operated by the Exchange and its affiliates, NYSE Arca, Inc. (''NYSE Arca''), NYSE American, LLC (''NYSE American''), NYSE National, Inc. (''NYSE National''), and New York Stock Exchange LLC (''NYSE'') (the ''Affiliated Exchanges'').

Subject to rule approvals, the Exchange anticipates that it will transition trading to Pillar in the fourth quarter 2019.[4]

1. Background

In July 2018, the Exchange and its direct parent company were acquired by NYSE Group, Inc. (''Transaction'').[5] As

[4] The Exchange has announced that, subject to rule approvals, the Exchange will transition to trading on Pillar on November 4, 2019. *See* Trader Update, available here: *https://www.nyse.com/publicdocs/nyse/markets/nyse-chicago/NYSE_Chicago_Migration.pdf.*

[5] *See* Exchange Act Release No. 83635 (July 13, 2018), 83 FR 34182 (July 19, 2018) (SR–CHX–2018–004); *see also* Exchange Act Release No. 83303 (May 22, 2018), 83 FR 24517 (May 29, 2018) (SR–CHX–2018–004).

a result of the Transaction, the Exchange became part of a corporate family including the Affiliated Exchanges. Following the Transaction, the Exchange continued to operate as a separate self-regulatory organization with rules, membership rosters and listings distinct from the rules, membership rosters and listings of the other Affiliated Exchanges.

With Pillar, the Exchange proposes to transition trading in all Tape A, Tape B, and Tape C-listed securities from its current trading platform to a fully automated price-time priority allocation model that operates on the Pillar trading platform. From the perspective of a Participant,[6] the experience trading on Pillar will be most similar to trading on NYSE Arca or NYSE National, as the Exchange would offer the same suite of orders and modifiers as are available on those exchanges.[7] Accordingly, the Exchange proposes trading rules based on the rules and trading model of the cash equities platforms of NYSE Arca and NYSE National, which both operate fully automated price-time priority allocation exchanges on the Pillar trading platform. Specifically, the Exchange proposes rules relating to orders and modifiers, ranking and display of orders, execution and routing of orders, and all other trading functionality that are based on the rules of those exchanges.[8] The Exchange will continue to support its dual listings but will not provide trading functions, such as auctions, that support the operation of a primary listing exchange.[9] Accordingly, once it transitions to Pillar, NYSE Chicago will function most similarly to NYSE National, which is not a listing exchange.

The Exchange proposes four substantive differences from how trading on NYSE Arca and NYSE National function:

- First, the Exchange would continue to support Institutional Brokers,[10] as provided for under Article 17. As described in greater detail below, the Exchange proposes to amend the rules set forth under Article 17 only as necessary to support differences in the Pillar trading platform as compared to the Exchange's current trading rules.
- Second, the Exchange would continue to support an order type to facilitate compliance with the contingent trade exemption of Rule 611 of Regulation NMS, which is currently described in Article 1, Rule 2(b)(2)(E). While NYSE Arca and NYSE National both describe this exemption in their respective rules,[11] neither exchange offers a specific order type designed for this exemption. Similar to current Exchange rules, on Pillar, the Exchange will continue to support a Qualified Contingent Trade (''QCT'') cross order type that is designed for an Institutional Broker to comply with the contingent trade exemption, which will be described in proposed Rule 7.31(g).
- Third, the Exchange will continue to support non-regular way settlement instructions for cross orders and the ability for cross orders to be submitted in an increment as small as $0.000001. These proposed differences from NYSE Arca and NYSE National would be set forth in proposed Rules 7.6, 7.8, and 7.8A.
- Fourth, the Exchange will not support Market Makers on the Exchange. Accordingly, the Exchange does not propose rules based on Section 2 of NYSE Arca Rule 7–E or Section 2 of NYSE National Rule 7 and will not offer the ''Q'' Order type, as described in NYSE Arca Rule 7.31–E(j) and NYSE National Rule 7.31(j).

Once trading on the Pillar trading platform begins, specified current Exchange rules would not be applicable, as described in greater detail below. For each current rule (or Article) that would not be applicable for trading on the Pillar trading platform, the Exchange proposes to state in a preamble to such rule that ''this Rule/Article is not applicable to trading on the Pillar trading platform.'' [12]

Current Exchange rules that do not have this preamble will continue to govern Exchange operations after the transition to Pillar. Specifically, the following current rules will continue to be operative without any substantive changes: Article 2 (Committees); Article 3 (Participants and Participant Firms); Article 5 (except for Rule 1) (Access to the Exchange); Article 6 (Registration, Supervision and Training); Article 7 (Financial Responsibility and Reporting Requirements); Article 8 (except for Rule 17) (Business Conduct); Article 9 (except for Rule 23) (General Trading Rules); Article 10 (Margins); Article 11 (except for Rule 3(b)(8)) (Participant Books and Records); Article 12 (Disciplinary Matters and Trial Proceedings); Article 13 (Suspension—Reinstatement); Article 14 (Arbitration); Article 15 (Hearings and Reviews); Article 21 (Clearance and Settlement); and Article 22 (Listed Securities).

2. Proposed Rule Changes

The Exchange recently adopted the rule numbering framework of NYSE National rules, which are organized in 13 Rules.[13] This framework will

[6] The term ''Participant'' is defined in Article 1, Rule 1(s) to mean, among other things, any Participant Firm that holds a valid Trading Permit and that a Participant shall be considered a ''member'' of the Exchange for purposes of the Act. If a Participant is not a natural person, the Participant may also be referred to as a Participant Firm, but unless the context requires otherwise, the term Participant shall refer to an individual Participant and/or a Participant Firm.

[7] NYSE National was the most recent Affiliated Exchange to begin trading on the Pillar trading platform. *See* Securities Exchange Act Release No. 83289 (May 17, 2018), 83 FR 23968 (May 23, 2018) (SR–NYSENat–2018–02) (Order approving rule change to support the re-launch of NYSE National on the Pillar trading platform). Since launching, NYSE National has amended its Pillar trading rules, and the Exchange's proposed rules are based on the current version of NYSE National's rules. *See* Securities Exchange Act Release Nos. 83900 (August 22, 2018), 83 FR 43942 (August 28, 2018) (SR–NYSENat–2019–19) (Notice of filing and immediate effectiveness of proposed rule change relating to NYSE National Rule 7.31); 85144 (February 13, 2019), 84 F8 5519 (February 21, 2019) (SR–NYSENat-2019–02) (Notice of filing and immediate effectiveness of proposed rule change relating to NYSE National Rule 7.31); 85264 (March 7, 2019), 84 FR 9168 (March 13, 2019) (SR–NYSENat–2019–04) (Notice of filing and immediate effectiveness of proposed rule change relating to NYSE National Rules 7.16, 7.18, 7.34, and 7.38); 85572 (April 9, 2019), 84 FR 15257 (April 15, 2019) (SR–NYSENat–2019–08) (Notice of filing and immediate effectiveness of proposed rule change to NYSE National Rule 7.12); 85723 (April 25, 2019), 84 FR 18618 (May 1, 2019) (SR–NYSENat–2019–10) (Notice of filing and immediate effectiveness of proposed rule change to NYSE National Rule 7.11).

[8] NYSE American's cash equities market and NYSE also operate on the Pillar trading platform and share a substantial number of trading functions and Pillar platform rules with NYSE Arca and NYSE National (*see generally* NYSE American Rule 7–E (Equities Trading) and NYSE Rule 7P (Equities Trading)). NYSE American operates with a Delay Mechanism and as a result, does not offer all of the order types that are available on NYSE Arca and NYSE National (*see* NYSE American Rules 7.29 and 7.31). NYSE operates a Floor-based parity allocation model and offers order types that differ from those available on NYSE Arca and NYSE National (*see* NYSE Rules 7.31, 7.36, and 7.37). Because of those differences, which the Exchange does not propose, the Exchange will not cite to either NYSE American or NYSE Pillar rules in this filing, even if those exchanges have similar rules to what is being proposed for the Exchange.

[9] Information about the securities dually listed on the Exchange is available here: *https://www.nyse.com/markets/nyse-chicago/listings.*

[10] The term ''Institutional Broker'' is defined in Article 1, Rule 1(n) to mean a member of the Exchange who is registered as an Institutional Broker pursuant to the provisions of Article 17 and has satisfied all Exchange requirements to operate as an Institutional Broker on the Exchange.

[11] *See* NYSE Arca Rule 7.37–E(f)(5) and NYSE National Rule 7.37(f)(5).

[12] The NYSE uses the same convention to identify the NYSE trading rules that are not applicable to trading on Pillar. *See* Securities Exchange Act Release Nos. 82945 (March 26, 2018), 83 FR 13553, 13555 (March 29, 2018) (SR–NYSE–2017–36) (Approval Order) and 85962 (May 29, 2019), 84 FR 26188, 26189 (June 5, 2019) (SR–NYSE–2019–05) (Approval Order).

[13] *See* Securities Exchange Act Release No. 85297 (March 12, 2019), 84 FR 9854 (March 18, 2019) (SR–NYSECHX–2019–03) (Notice of Filing and Immediate Effectiveness) (''Framework Filing'').

eventually replace the Exchange's current rule numbering framework.

With this filing, and as described in greater detail below, the Exchange proposes to expand on the Framework Filing by adding new rules relating to trading on the Pillar trading platform (proposed Rules 0, 1, 2, and 7).

Similar to NYSE National, the Exchange proposes the following non-substantive differences throughout the proposed Pillar rules as compared to the NYSE Arca rules:

- To use the term ''Exchange'' instead of ''NYSE Arca Marketplace;''
- to use the term ''Exchange Act,'' which is a proposed defined term;
- to use the term ''Exchange Book'' instead of ''NYSE Arca Book;''
- to use the term ''will'' instead of ''shall;'' and
- to use the term ''Participant'' instead of ''ETP Holder.''

Rule 0—Regulation of the Exchange and Participants

As described in the Framework Filing, Rule 0 establishes the regulation of the Exchange and Participants. As proposed, Rule 0 would provide that:

> The Exchange and FINRA are parties to a Regulatory Services Agreement (''RSA'') pursuant to which FINRA has agreed to perform certain regulatory functions of the Exchange on behalf of the Exchange. Exchange Rules that refer to Exchange staff and Exchange departments should be understood as also referring to FINRA staff and FINRA departments acting on behalf of the Exchange pursuant to the RSA, as applicable. Notwithstanding the fact that the Exchange has entered into an RSA with FINRA to perform certain of the Exchange's functions, the Exchange shall retain ultimate legal responsibility for, and control of, such functions.

This proposed rule is based on NYSE National Rule 0 and NYSE Arca Rule 0 without any substantive differences. Because NYSE Chicago now has an RSA with FINRA, the Exchange proposes Rule 0, which would be a new Exchange rule.

Rule 1—Definitions

As described in the Framework Filing, Rule 1 would set forth definitions applicable to trading on the Exchange's Pillar trading platform. Proposed Rule 1.1 includes definitions that are based on NYSE National Rule 1.1 definitions and NYSE Arca Rule 1.1 definitions.

Proposed Rule 1.1 would provide that as used in Exchange rules, unless the context requires otherwise, the terms in proposed Rule 1.1 would have the meanings indicated. This rule is based on NYSE National Rule 1.1. The Exchange proposes sub-paragraph numbering for Rule 1.1 that aligns to the alphabetical ordering of the proposed definitions. The Exchange proposes the following definitions:

- Proposed Rule 1.1(a) would define the terms ''Authorized Trader'' or ''AT'' to mean a person who may submit orders to the Exchange's Trading Facilities on behalf of his or her Participant. This proposed rule is based on NYSE National 1.1(a) and NYSE Arca Rule 1.1(e) without any substantive differences.
- Proposed Rule 1.1(b) would define the term ''Away Market'' to mean any exchange, alternative trading system (''ATS'') or other broker-dealer (1) with which the Exchange maintains an electronic linkage and (2) that provides instantaneous responses to orders routed from the Exchange. The Exchange will designate from time to time those ATS's or other broker-dealers that qualify as Away Markets. This proposed rule is based on NYSE National Rule 1.1(b) and NYSE Arca Rule 1.1(f) without any substantive differences.
- Proposed Rule 1.1(c) would define the term ''BBO'' to mean the best bid or offer that is a Protected Quotation on the Exchange and that the term ''BB'' means the best bid that is a Protected Quotation on the Exchange and the term ''BO'' means the best offer that is a Protected Quotation on the Exchange. This proposed rule is based on NYSE National Rule 1.1(c) and NYSE Arca Rule 1.1(g) without any substantive differences.
- Proposed Rule 1.1(d) would define the terms ''Board'' and ''Board of Directors'' to mean the Board of Directors of NYSE Chicago, Inc. This proposed rule is based on NYSE National Rule 1.1(d) and NYSE Arca Rule 1.1(h).
- Proposed Rule 1.1(e) would define the term ''Core Trading Hours'' to mean the hours of 9:30 a.m. Eastern Time through 4:00 p.m. Eastern Time or such other hours as may be determined by the Exchange from time to time. This proposed rule is based on NYSE National Rule 1.1(e) and NYSE Arca Rule 1.1(j). Proposed Rule 1.1(e) would also provide that all times in the Pillar Platform Rules are Eastern Time, which text is based on NYSE Rule 1.1(d). Because all times would be Eastern Time, the Exchange proposes that Article 1, Rule 3 would not be applicable to trading on Pillar.
- Proposed Rule 1.1(f) would define the terms ''Effective National Market System Plan'' and ''Regular Trading Hours'' to have the meanings set forth in Rule 600(b) of Regulation NMS under the Exchange Act. This proposed rule is based on NYSE National Rule 1.1(f) and NYSE Arca Rule 1.1(l).
- Proposed Rule 1.1(g) would define the term ''Eligible Security'' to mean any equity security (i) traded on the Exchange pursuant to a grant of unlisted trading privileges under Section 12(f) of the Exchange Act and (ii) specified by the Exchange to be traded on the Exchange or other facility, as the case may be. This proposed rule is based on NYSE National Rule 1.1(g) and NYSE Arca Rule 1.1(m).
- Proposed Rule 1.1(h) would define the term ''Exchange'' to mean NYSE Chicago, Inc. This proposed rule is based on NYSE National Rule 1.1(j).
- Proposed Rule 1.1(i) would define the term ''Exchange Act'' to mean the Securities Exchange Act of 1934, as amended. This proposed rule is based on NYSE National Rule 1.1(k) and NYSE Arca Rule 1.1(q).
- Proposed Rule 1.1(j) would define the term ''Exchange Book'' to mean the Exchange's electronic file of displayed and non-displayed orders. This proposed rule is based on NYSE National Rule 1.1(l).
- Proposed Rule 1.1(k) would define the term ''Exchange Traded Product'' to mean a security that meets the definition of ''derivative securities product'' in Rule 19b–4(e) under the Exchange Act and would define the term ''UTP Exchange Traded Product'' to mean one of the following Exchange Traded Products that trades on the Exchange pursuant to unlisted trading privileges: Equity Linked Notes, Investment Company Units, Index-Linked Exchangeable Notes, Equity Gold Shares, Equity Index-Linked Securities, Commodity-Linked Securities, Currency-Linked Securities, Fixed-Income Index-Linked Securities, Futures-Linked Securities, Multifactor-Index-Linked Securities, Trust Certificates, Currency and Index Warrants, Portfolio Depository Receipts, Trust Issued Receipts, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Paired Trust Shares, Trust Units, Managed Fund Shares, and Managed Trust Securities. This proposed rule is based on NYSE National Rule 1.1(m). This enumerated list is designed to establish rules relating to the classes of securities to which the Exchange would extend unlisted trading privileges on Pillar.
- Proposed Rule 1.1(l) would define the term ''FINRA'' to mean the Financial Industry Regulatory Authority, Inc. This proposed rule is based on NYSE National Rule 1.1(n).

• Proposed Rule 1.1(m) would define the term ''Marketable'' to mean, for a Limit Order, an order that can be immediately executed or routed and that Market Orders are always considered marketable. This proposed rule is based on NYSE National Rule 1.1(p) and NYSE Arca Rule 1.1(y).

• Proposed Rule 1.1(n) would define the terms ''NBBO, Best Protected Bid, Best Protected Offer, and Protected Best Bid and Offer (PBBO)''. The term ''NBBO'' would mean the national best bid or offer, as defined in Rule 600(b)(42) of Regulation NMS. The terms ''NBB'' would mean the national best bid and ''NBO'' would mean the national best offer. The terms ''Best Protected Bid'' or ''PBB'' would mean the highest Protected Bid, and ''Best Protected Offer'' or ''PBO'' would mean the lowest Protected Offer, and the term ''Protected Best Bid and Offer'' (''PBBO'') would mean the Best Protected Bid and the Best Protected Offer, as those terms are defined in Rule 600(b)(57) of Regulation NMS. This proposed rule is based on NYSE National Rule 1.1(t) and NYSE Arca Rule 1.1(dd).

The Exchange proposes to calculate the NBBO and PBBO in the same manner that NYSE Arca calculates the NBBO and PBBO.[14] As described in the NYSE Arca Data Feed Filing, the NBBO may differ from the PBBO because the NBBO includes Manual Quotations, which are defined as any quotation other than an automated quotation. By contrast, a protected quotation is an automated quotation that is the best bid or offer of a national securities exchange.[15] Another difference between NBBO and PBBO is that when the Exchange routes interest to a protected quotation, it will adjust the PBBO. Accordingly, for this additional reason, the PBBO may differ from the NBBO, which the Exchange does not adjust based on interest it routes to protected quotations. As described in greater detail below, the Exchange proposed to use both the NBBO and PBBO for purposes of order types that may be priced based on an external reference price.

• Proposed Rule 1.1(o) would define the term ''NMS Stock'' to mean any security, other than an option, for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan as defined in Rule 600(b)(47) of Regulation NMS. This proposed rule is based on NYSE National Rule 1.1(u).

• Proposed Rule 1.1(p) would define the term ''NYSE Chicago Marketplace'' to mean the electronic securities communications and trading facility of the Exchange through which orders are processed or are consolidated for execution and/or display. This proposed definition is based on NYSE Arca Rule 1.1(kk) and NYSE American Rule 1.1E(e) without any substantive differences. As described in greater detail below, the Exchange proposes to use this definition to replace references to the term ''Matching System'' in the current rules that would continue to be applicable after the Exchange transitions to Pillar.

• Proposed Rule 1.1(q) would define the term ''Protected Bid'' or ''Protected Offer'' to mean a quotation in an NMS Stock that is (i) displayed by an Automated Trading Center; (ii) disseminated pursuant to an effective national market system plan; and (iii) an Automated Quotation that is the best bid or best offer of a national securities exchange or the best bid or best offer of a national securities association. The term ''Protected Quotation'' would mean a quotation that is a Protected Bid or Protected Offer. For purposes of the foregoing definitions, the terms ''Automated Trading Center,'' ''Automated Quotation,'' ''Manual Quotation,'' ''Best Bid,'' and ''Best Offer,'' would have the meanings ascribed to them in Rule 600(b) of Regulation NMS under the Exchange Act. This proposed rule is based on NYSE National Rule 1.1(aa) without any substantive differences.

• Proposed Rule 1.1(r) would define the term ''Security'' and ''Securities'' to mean any security as defined in Rule 3(a)(10) under the Exchange Act, provided, that for purposes of Rule 7, such term would mean any NMS Stock. This proposed rule is based on NYSE National Rule 1.1(bb) and NYSE Arca Rule 1.1(vv).

• Proposed Rule 1.1(s) would define the term ''self-regulatory organization'' and ''SRO'' to have the same meaning as set forth in the provisions of the Exchange Act relating to national securities exchanges. This proposed rule is based on NYSE National Rule 1.1(ee) and NYSE Arca Rule 1.1(ww) without any substantive differences.

• Proposed Rule 1.1(t) would define the term ''trade-through'' to mean the purchase or sale of an NMS Stock during regular trading hours, either as principal or agent, at a price that is lower than a Protected Bid or higher than a Protected Offer. This proposed rule is based on NYSE National Rule 1.1(ff) and NYSE Arca Rule 1.1(bbb) without any substantive differences.

• Proposed Rule 1.1(u) would define the term ''Trading Center'' to mean, for purposes of Rule 7, a national securities exchange or a national securities association that operates an SRO trading facility, an alternative trading system, an exchange market maker, an OTC market maker or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent. For purposes of this definition, the terms ''SRO trading facility,'' ''alternative trading system,'' ''exchange market maker'' and ''OTC market maker'' would have the meanings ascribed to them in Rule 600(b) of Regulation NMS under the Exchange Act. This proposed rule is based on NYSE National Rule 1.1(gg) and NYSE Arca Rule 1.1(ccc) without any substantive differences.

• Proposed Rule 1.1(v) would define the term ''Trading Facilities'' to mean any and all electronic or automatic trading systems provided by the Exchange to Participants. This proposed rule is based on NYSE National Rule 1.1(hh) without any differences.

• Proposed Rule 1.1(w) would define the term ''UTP Security'' to mean a security that is listed on a national securities exchange other than the Exchange and that trades on the Exchange pursuant to unlisted trading privileges. This proposed rule is based on NYSE National Rule 1.1(ii) and NYSE Arca Rule 1.1(iii) without any substantive differences.

• Proposed Rule 1.1(x) would define the term ''UTP Listing Market'' to mean the primary listing market for a UTP Security. This proposed rule is based on NYSE National Rule 1.1(jj) and NYSE Arca Rule 1.1(ggg) without any substantive differences.

• Proposed Rule 1.1(y) would define the term ''UTP Regulatory Halt'' to mean a trade suspension, halt, or pause called by the UTP Listing Market in a UTP Security that requires all market centers to halt trading in that security. This proposed rule is based on NYSE National Rule 1.1(kk) and NYSE Arca Rule 1.1(hhh) without any substantive differences.

Because the above-described rules would describe definitions to support the trading rules on Pillar, the Exchange proposes to amend Article 1, Rule 1 to specify which current definitions would not be applicable to trading on the Pillar trading platform. To effect this change,

[14] *See* Securities Exchange Act Release No. 74409 (March 2, 2015), 80 FR 12221 (March 6, 2015) (SR–NYSEArca–2015–11) (Notice of filing and immediate effectiveness of proposed rule change specifying NYSE Arca's use of certain data feeds for handling and execution, order routing, and regulatory compliance) (''NYSE Arca Data Feed Filing''). The Exchange proposes to establish the data feeds that it uses for handling, execution, and routing of orders in proposed Rule 7.37, described below.

[15] *See id.* at 12222 n.9.

the Exchange proposes to amend the opening paragraph to Article 1, Rule 1 to provide that paragraphs (a), (e), (f), (g), (k), (l), (o), (z), (bb), (cc), (dd), (nn), (pp), (qq), (tt), and (uu) would not be applicable to trading on the Pillar trading platform.

Rule 2—Trading Permits

The Exchange proposes to retain its existing rules governing membership and registration. Accordingly, at this time, the Exchange does not propose any membership rules for Rule 2 (Trading Permits), with one exception. The Exchange proposes that Rule 2.13 would address mandatory participation in the testing of backup systems. To maintain consistency among the Affiliated Exchanges, the Exchange proposes that Rule 2.13 would be based on NYSE National Rule 2.13 without any substantive differences.

Because proposed Rule 2.13 would govern mandatory participation in the testing of back-up systems, the Exchange proposes to amend Article 3, Rule 21 to add a preamble that such rule would not be applicable to trading on the Pillar trading platform.

Rule 7—Equities Trading

Rule 7 would establish rules for trading on the Exchange. As noted above, the Exchange will launch on the same trading platform as NYSE National's and NYSE Arca's cash equities trading platform, and proposes trading rules based on the rules of those exchanges, including general provisions relating to trading on the Exchange and operation of the routing broker. Rule 7 would therefore specify all aspects of trading on the Exchange, including the orders and modifiers that would be available and how orders would be ranked, displayed, and executed.

Because the Exchange would not be a primary listing exchange, the Exchange does not propose to have either lead or designated market makers assigned to securities trading on the Exchange. The Exchange therefore does not propose rules based on Section 2 to NYSE Arca Rule 7–E or Section 2 to NYSE National Rule 7. In addition, because the Exchange would not operate auctions, the Exchange does not propose a rule based on NYSE Arca Rule 7.35–E (Auctions).

As noted above, the Exchange proposes to define terms in Rule 1.1. In addition, the Exchange would be defining terms relating to equities trading in specified rules in Rule 7. Accordingly, the Exchange proposes to include a preamble after ''Rule 7'' and before ''Section 1. General Provisions'' that would provide that in addition to using terms defined in Rule 1.1, Rule 7 would use capitalized terms that refer to certain order types and modifiers that are defined in Rule 7.31 and other capitalized terms relating to trading sessions and the ranking of orders that are defined in Rules 7.34 and 7.36, and additional terms defined under Article 1, Rule 1. This rule text is based on NYSE National Rule 7, with one difference to reference definitions in Article 1, Rule 1.

A. Proposed Rules Based on NYSE Arca and NYSE National

The following sets forth the proposed rules that are based on the rules of NYSE Arca and NYSE National without any substantive differences. Proposed Rules 7.6, 7.8, 7.8A, 7.31(g), and 7.32, which would differ from the NYSE Arca and NYSE National rules, will be discussed in the next section. The Exchange does not propose rules based on NYSE National Rule 7.14 and 7.41, relating to clearing. Current Article 21 (Clearance and Settlement) will continue to be operative on the Pillar trading platform without any differences.

Section 1 of Rule 7 would specify the General Provisions relating to trading on the Pillar trading platform. The Exchange proposes the following rules:

- Proposed Rule 7.5 (Trading Units) would establish the unit of trading in securities on the Exchange, including that a unit of trading is one share, a ''round lot'' would be 100 shares, unless specified by the primary listing market to be fewer than 100 shares, and that any amount less than a round lot would constitute an ''odd lot'' and any amount greater than a round lot that is not a multiple of a round lot would constitute a ''mixed lot.'' The proposed rule is based on NYSE National Rule 7.5 and NYSE Arca Rule 7.5–E without any differences.

Because proposed Rule 7.5 would address the trading units on the Exchange, the Exchange proposes that Article 1, Rule 2(f) would not be applicable to trading on the Pillar trading platform.

- Proposed Rule 7.7 (Transmission of Bids or Offers) would establish that all bids and offers on the Exchange would be anonymous unless otherwise specified by the Participant. The proposed rule is based on NYSE National Rule 7.7 and NYSE Arca Rule 7.7–E without any differences. This proposed rule text is new and does not replace any current Exchange rule.
- Proposed Rule 7.9 (Execution Price Binding) would establish that, notwithstanding proposed Rules 7.10 and 7.11, the price at which an order is executed is binding notwithstanding that an erroneous report is rendered. In other words, the Exchange would consider all trades at which an order is executed as binding regardless of whether a Participant issues an erroneous report regarding the execution. This proposed rule text is based on NYSE National Rule 7.9 and NYSE Arca Rule 7.9–E.

In addition, the Exchange proposes that current Article 20, Rules 9, 9A, and 11 would continue to be operative once the Exchange transitions to Pillar. Because these rules provide for additional circumstances when a trade may be cancelled, the Exchange proposes a substantive difference from NYSE National Rule 7.9 and NYSE Arca Rule 7.9–E to reference these three rules, in addition to references to proposed Rules 7.10 and 7.11, as exceptions to proposed Rule 7.9 that an execution price would be binding.

Because proposed Rule 7.9 would address the executions are binding, the Exchange proposes that Article 20, Rule 3 would not be applicable to trading on the Pillar trading platform.

- Proposed Rule 7.10 (Clearly Erroneous Executions) would set forth the Exchange's rules on clearly erroneous executions. The proposed rule is based on NYSE National Rule 7.10 without any substantive differences. Because the rules governing clearly erroneous executions have been harmonized among all equities exchanges, this rule is also based on current Article 20, Rule 10, which the Exchange proposes would not be applicable to trading on Pillar.

Certain provisions of the equities exchanges' harmonized clearly erroneous rules are on a pilot that expires at the close of business on October 19, 2019.[16] As set forth in Interpretation and Policies .01 to current Article 20, Rule 10, paragraphs (c), (e)(2), (f), and (g), as amended on September 10, 2010, and the provisions of paragraphs (i) through (k) shall be in effect during a pilot period that expires at the close of business on October 18, 2019.[17] To conform the Exchange's proposed Rule 7.10 with this

[16] *See* Securities Exchange Act Release No. 85533 (April 5, 2019), 84 FR 14701 (April 11, 2019) (SR–NYSECHX–2019–04) (Notice of filing and immediate effectiveness of proposed rule change to extend current pilot program). *See also* Securities Exchange Act Release No. 62886 (September 10, 2010), 75 FR 56613 (September 16, 2010) (SR–CHX–2010–137) (Order approved harmonized clearly erroneous execution rules for all registered equity exchanges).

[17] The U.S. equities exchanges are working on an amendment to the harmonized clearly erroneous rules and the Exchange will amend this proposed rule to conform to any approved changes to the market-wide clearly erroneous rules.

convention, the Exchange proposes to provide that if the pilot period is not either extended or approved as permanent, the prior versions of those sections of Article 20, Rule 10 prior to being amended by SR–CHX–2010–13 would be in effect and the provisions of paragraphs (i) through (k) would be null and void.

The Exchange proposes to make a conforming amendment to Article 2, Rule 2 to add a cross-reference to proposed Rule 7.10(e) in each place where current Article 20, Rule 10(d) is referenced.

• Proposed Rule 7.11 (Limit Up—Limit Down Plan and Trading Pauses in Individual Securities Due to Extraordinary Market Volatility) would specify how the Exchange would comply with the Regulation NMS Plan to Address Extraordinary Market Volatility (''LULD Plan.'') [18] The proposed rule is based on NYSE National Rule 7.11 with the following differences.[19] First, in proposed Rule 7.11(a)(2), the Exchange proposes to use the lower-case term ''participant'' to refer to the Exchange's role in the LULD Plan. The Exchange proposes this difference from NYSE National Rule 7.11(a)(2) because under Exchange rules, the upper-case term ''Participant'' means a member of the Exchange, and therefore the proposed Rule 7.11(a)(3) reference to ''Participant'' means Exchange Participants, and not the Exchange.[20] Second, because the Exchange will not have market makers or ''Q'' Orders, the Exchange proposes to designate proposed Rule 7.11(a)(5)(D) as ''Reserved.''

To align proposed Rule 7.11(a)(5)(E) with NYSE National Rule 7.11(a)(5)(E), the Exchange proposes that this Rule would refer to ''Limit IOC Cross Orders with regular-way settlement instructions,'' and not just ''Limit IOC Cross Orders,'' as set forth in NYSE National Rule 7.11(a)(5)(E). The Exchange proposes this difference because, as described below, the Exchange will make available non-regular way settlement instructions for Cross Orders and will also offer a QCT Cross Order. Because neither of these order types are subject to the LULD Plan, the Exchange does not propose to restrict executions of such orders because of Price Bands.[21]

Because proposed Rule 7.11 would address the LULD Plan, the Exchange proposes that Article 20, Rule 2A would not be applicable to trading on Pillar.

• Proposed Rule 7.12 (Trading Halts Due to Extraordinary Market Volatility) would establish rules on halts in trading due to extraordinary market volatility and related reopening of trading. The proposed rule is based on NYSE National Rule 7.12 and NYSE Arca Rule 7.12–E without any substantive differences.[22] Because proposed Rule 7.12 would address market-wide circuit breakers, the Exchange proposes that Article 20, Rule 2 would not be applicable to trading on Pillar.[23]

• Proposed Rule 7.16 (Short Sales) would establish requirements relating to short sales, including how orders would be re-priced during a Short Sale Price Test pursuant to Rule 201 of Regulation SHO. The proposed rule is based on NYSE National Rule 7.16 without any substantive differences. Because the Exchange would not be a primary listing exchange, the Exchange does not propose rule text based on NYSE Arca Rule 7.16–E(f)(3) or 7.16–E(f)(4)(A) and (B). The Exchange notes that pursuant to proposed Rule 7.16(f)(5)(H), any Cross Order that includes a short sale order and has a cross price at or below the NBBO would be rejected. As proposed, this would include all forms of Cross Orders available on the Exchange, including, as described below, QCT Cross Orders and Cross Orders that include non-regular way settlement instructions.

Because proposed Rule 7.16 would address short sales, the Exchange proposes that Article 1, Rules 2(b)(1)(C)(ii) and 2(b)(3)(D) and (E), Article 20, Rule 8(d)(4), and Article 9, Rule 23 would not be applicable to trading on Pillar.

• Proposed Rule 7.17 (Firm Orders and Quotes) would establish requirements that all orders and quotes must be firm. This proposed rule is based on NYSE National Rule 7.17 and NYSE Arca Rule 7.17–E with one substantive difference not to include reference to Q Orders, which will not be available on the Exchange. Because proposed Rule 7.17 would address firm orders and quotes, the Exchange proposes that Article 20, Rule 3 would not be applicable to trading on Pillar.

• Proposed Rule 7.18 (Halts) would establish rules relating to trading halts of securities traded pursuant to UTP on the Exchange's Pillar platform, including how orders will be processed during a trading halt and halts in Exchange Traded Products. This proposed rule is based on NYSE National Rule 7.18 without any substantive differences. Because proposed Rule 7.18 would address halts, the Exchange proposes that Article 1, Rule 2(b)(1)(B, Article 20, Rule 1, Interpretations and Policies .02, and Article 22, Rule 6(a)(3) would not be applicable to trading on Pillar.

As noted above, at this time, the Exchange is not proposing to offer rules for market makers on the Exchange and, therefore, proposes to designate Section 2 as ''Reserved.'' The Exchange further proposes that Article 16 in its entirety would not be applicable to trading on Pillar.

Section 3 of proposed Rule 7 would establish the Exchange's trading rules. Among other things, these rules would establish the orders and modifiers that would be available on the Exchange (proposed Rule 7.31), describe order display and ranking (proposed Rule 7.36), and describe how the Exchange would ensure that orders would not trade through either the PBBO (for Limit Orders) or NBBO (for Market Orders and Inside Limit Orders) and when orders would route (proposed Rules 7.37 and 7.34).

As noted above, the Exchange will not conduct any auctions, and therefore does not propose a rule based on NYSE Arca Rule 7.35–E. In addition, because the Exchange would not offer a retail liquidity program, the Exchange does not propose a rule based on NYSE Arca Rule 7.44–E and proposed Rules 7.36, 7.37, and 7.38 would not include any references to Rule 7.44.

• Proposed Rule 7.29 (Access) would provide that the Exchange would be available for entry and execution of orders by Participants with authorized access. To obtain authorized access to the Exchange, each Participant would be required to enter into a User Agreement. Proposed Rule 7.29 is based on NYSE

[18] *See* Securities Exchange Act Release No. 85623 (April 11, 2019), 74 FR 16086 (April 17, 2019) (File No. 4–631) (Order approving eighteenth amendment to LULD Plan to transition from operating on a pilot to a permanent basis).

[19] Because the Exchange will not be a primary listing exchange, the Exchange does not propose rule text based on NYSE Arca Rule 7.11–E.

[20] *See supra* note 6.

[21] *See* Section VI(a)(1) of the LULD Plan (providing that ''any transaction that both (i) does not update the last sale price . . . and (ii) is excepted or exempt from Rule 611 under Regulation NMS'' is excluded from the limitation that trades should not be executed outside the Price Bands). As discussed below, Cross Orders with non-regular way settlement instructions or that are QCT are excepted from Rule 611 under Regulation NMS. In addition, neither order type will update the last sale price on the Exchange. Accordingly, these transactions are not subject to the LULD Plan and therefore will not be included in proposed Rule 7.11(a)(5)(E).

[22] The U.S. equities exchanges are working on an amendment to the harmonized market-wide circuit breaker rules and the Exchange will amend this proposed rule to conform to any approved changes to the market-wide circuit breaker rules.

[23] To maintain continuity of rule numbering with those of its Affiliated Exchanges, the Exchange proposes to designate Rules 7.14 and 7.15 as ''Reserved.''

National Rule 7.29 and NYSE Arca Rule 7.29–E(a) without any substantive differences. The Exchange does not propose to include rule text based on NYSE Arca Rule 7.29–E(b).

• Proposed Rule 7.30 (Authorized Traders) would provide for requirements relating to Authorized Traders and is based on NYSE National Rule 7.30 and NYSE Arca Rule 7.30–E without any differences.

Because proposed Rules 7.29 and 7.30 would address access and individuals who may access the Exchange, the Exchange proposes that Article 5, Rule 1 would not be applicable to trading on Pillar.

• Proposed Rule 7.31 (Orders and Modifiers) would specify the orders and modifiers that would be available on the Exchange. The Exchange proposes to offer the same types of orders and modifiers that are available on NYSE National and NYSE Arca, with specified differences. Specifically, proposed Rule 7.31(a)–(f) and (h)–(i) are based on NYSE National Rule 7.31(a)–(f) and (h)–(i) and NYSE Arca Rule 7.31–E(a)–(f) and (h)–(i), subject to specified differences described below. As noted above, proposed Rule 7.31(g), relating to Cross Orders, will be described in greater detail below.

The Exchange does not propose to include text based on NYSE Arca Rule 7.31–E relating to auctions or being a primary listing exchange. Instead, for those applicable sub-paragraphs of proposed Rule 7.31, the Exchange proposes rule text based on NYSE National Rule 7.31, which also does not conduct auctions or operate as a primary listing exchange. Specifically, proposed Rules 7.31(a)(2)(B) (Limit Order Price Protection), 7.31(c) (Auction-Only Orders), 7.31(f)(1) (Primary Only Orders), and 7.31(f)(1)(B) (designating a Primary Only Day/IOC Order in an NYSE, NYSE Arca, or NYSE American-listed security as routable) are based on NYSE National Rules 7.31(a)(2)(B), 7.31(c), 7.31(f)(1), and 7.31(f)(1)(B) and not the NYSE Arca versions of those subparagraphs.

In addition, similar to NYSE National Rule 7.31, proposed Rule 7.31 would not include text based on NYSE Arca Rule 7.31–E that specifies whether an order is eligible to participate in an auction. Accordingly, the Exchange will not include rule text based on NYSE Arca Rules 7.31–E(b)(2), (d)(2), (d)(3), (e)(2)(A), (g), (h)(1), (h)(2), and (i)(2) that refer to how such orders would function in an auction.

Also similar to NYSE National, the Exchange is not proposing to offer a Discretionary Pegged Order and, therefore, proposes to designate proposed Rule 7.31(h)(3) as ''Reserved'' and will not include a reference to Discretionary Pegged Orders in proposed Rule 7.34. Except for these differences, proposed Rules 7.31(a)–(f) and (h)–(i) are based on the same rules of NYSE National and NYSE Arca.

Because proposed Rule 7.31 would address orders and modifiers that would be available when the Exchange transitions to Pillar, the Exchange proposes that the remainder of Article 1, Rule 2 not specifically identified above would not be applicable to trading on Pillar. As noted above and below, specified subparagraphs of Article 1, Rule 2 would not be applicable to trading on Pillar and the Exchange has described how they would be addressed in other Pillar rules. Together, the entirety of Article 1, Rule 2 would not be applicable to trading on Pillar. As a result, with the exception of Cross Orders, described below, the Exchange would no longer make available orders and modifiers that are described in Article 1, Rule 2.

In addition, the Exchange proposes that Article 20, Rule 4 would not be applicable to trading on Pillar because proposed Rule 7.31 would specify the orders and modifiers available for trading on the Exchange. Finally, as noted below, Article 20, Rule 8 would not be applicable to trading on Pillar, and that includes those provisions of that rule that relate to order behavior that would be described in proposed Rule 7.31 (*e.g.,* Article 20, Rule 8(b)(4), regarding how Reserve Size orders are refreshed, would be addressed in proposed Rule 7.31(d)(2)).

• Proposed Rule 7.33 (Capacity Codes) would establish requirements for capacity code information that Participants must include with every order. The proposed rule is based on NYSE National Rule 7.33 and NYSE Arca Rule 7.33–E without any substantive differences.

Because proposed Rule 7.33 would address capacity codes, the Exchange proposes that Article 11, Rule 3(b)(8) and Article 20, Rule 8 Interpretation and Policies .01 would not be applicable to trading on Pillar.

• Proposed Rule 7.34 (Trading Sessions) would specify trading sessions on the Exchange. The proposed rule is based on NYSE National 7.34 without any substantive differences. Specifically, the Exchange proposes that the Early Trading Session would begin at 7:00 a.m. and conclude at the commencement of the Core Trading Session, the Core Trading Session would begin at 9:30 a.m. and would end at the conclusion of Core Trading Hours, and the Late Trading Session would begin at the conclusion of the Core Trading Session and conclude at 8:00 p.m. Proposed Rule 7.34(c) would specify the orders permitted in each session, and proposed Rule 7.34(d) would specify customer disclosures required for trading in the Early and Late Trading Sessions.

Because proposed Rule 7.34 would address trading sessions, including customer disclosures for trading outside of Core Trading Hours, the Exchange proposes that Article 8, Rule 17, Article 20, Rule 1(b) and Interpretation .03 to Rule 1, and Article 20, Rule 8(c) would not be applicable to trading on Pillar.[24]

• Proposed Rule 7.36 (Order Ranking and Display) would establish requirements for how orders would be ranked and displayed at the Exchange. The proposed rule is based on NYSE National Rule 7.36 and NYSE Arca Rule 7.36–E without any substantive differences.

Because proposed Rule 7.36 would address how orders are ranked and displayed, the Exchange proposes that Article 1, Rule 1(pp) and Article 20, Rule 8(b) would not be applicable to trading on Pillar.

• Proposed Rule 7.37 (Order Execution and Routing) would establish requirements for how orders would execute and route at the Exchange, the data feeds that the Exchange would use, and Exchange requirements under the Order Protection Rule and the prohibition on locking and crossing quotations in NMS Stocks. This proposed rule is based on NYSE National Rule 7.37 and NYSE Arca Rule 7.37–E without any substantive differences.

Because proposed Rule 7.37 would address how orders are executed and ranked, which data feeds the Exchange will use, and Regulation NMS, the Exchange proposes that Article 1, Rule 4 and Article 20, Rules 5, 6, 8(d), and 8(f) would not be applicable to trading on Pillar.

• Proposed Rule 7.38 (Odd and Mixed Lot) would establish requirements relating to odd lot and mixed lot trading on the Exchange. The proposed rule is based on NYSE National Rule 7.38 and NYSE Arca Rule 7.38–E without any substantive differences.[25]

Because proposed Rule 7.38 would address odd lot orders, the Exchange

[24] To maintain continuity of rule numbering with those of its Affiliated Exchanges, the Exchange proposes to designate Rule 7.35 as ''Reserved.''

[25] The Exchange does not propose a rule based on NYSE Arca Rule 7.39–E (concerning adjustment of open orders, which relates to good-til-cancelled orders, which would not be available on the Exchange). Similar to NYSE National, the Exchange will designate Rule 7.39 as ''Reserved.''

proposes that Article 20, Rules 5(b) and 8(d)(3) would not be applicable to trading on Pillar.

• Proposed Rule 7.40 (Trade Execution and Reporting) would establish the Exchange's obligation to report trades to an appropriate consolidated transaction reporting system. The proposed rule is based on NYSE National Rule 7.40 and NYSE Arca Rule 7.40–E without any substantive differences.

Because proposed Rule 7.40 would address reporting trades to a consolidated transaction reporting system, the Exchange proposes that Article 20, Rule 8(g) would not be applicable to trading on Pillar.

Section 4 of proposed Rule 7 would establish the Operation of a Routing Broker. Specifically, proposed Rule 7.45 (Operation of a Routing Broker) would establish both the outbound and inbound function of the Exchange's routing broker, the cancellation of orders as the Exchange deems necessary to maintain a fair and orderly market if a technical issue occurs at the Exchange, the routing broker, or a routing destination, and the Exchange's error account. The proposed rule would also set forth the parameters of the Exchange's relationship with its affiliated broker-dealer, Archipelago Securities LLC, which would function solely as a routing broker on behalf of both the Exchange and the Affiliated Exchanges. The proposed rule is based on NYSE National Rule 7.45 and NYSE Arca Rule 7.45–E without any substantive differences.[26]

Because proposed Rule 7.45 would address both the operation of the routing broker and cancellation of orders, the Exchange proposes that Article 19 in its entirety and Article 20, Rule 12 would not be applicable to trading on Pillar.

B. Proposed Rules Relating to Cross Orders

The Exchange proposes to continue to support cross orders. Currently, the Exchange offers the following cross orders: ''Benchmark,'' ''Midpoint Cross,'' and ''QCT.'' [27] In addition, the Exchange offers a ''Cross with Size'' modifier, which permits a cross order of at least 5,000 shares of the same security with a total value of at least $100,000 to execute, notwithstanding resting orders in the book at the same price, subject to specified conditions.[28] Currently, cross orders can be entered with Non-Regular Way Settlement instructions [29] and may be submitted in an increment as small as $0.000001, subject to specified conditions.[30]

With the transition to the Pillar trading platform, the Exchange proposes to streamline the cross order offerings on the Exchange and no longer offer Midpoint or Benchmark cross orders. As proposed, cross orders would be based in part on existing cross order functionality on NYSE Arca and NYSE National. As a substantive difference compared to NYSE Arca and NYSE National, the Exchange proposes to continue to offer a QCT cross order and Cross with Size, as well as related functionality to permit cross orders to be entered with non-regular way settlement instructions and with trading increments out six decimals. As described in more detail below, the Exchange proposes to combine existing Pillar functionality relating to cross orders with the Exchange's current cross order offerings.

Under NYSE Arca Rule 7.31–E(g) and NYSE National Rule 7.31(g), a ''Cross Order'' is defined as two-sided orders with instructions to match the identified buy-side with the identified sell-side at a specified price (the ''cross price''). Both exchanges offer one type of Cross Order—a Limit IOC Cross Order—which is a Cross Order that must trade at full at its cross price, will not route, and will cancel at the time of entry if the cross price is not between the BBO [31] or would trade through the PBBO.[32] Accordingly, NYSE Arca and NYSE National will accept and execute a Limit IOC Cross Order that is priced between the BBO, even if there are non-displayed or odd-lot sized buy or sell orders between the BBO. This functionality is not currently available on the Exchange.

Proposed Rule 7.31(g) would set forth the Cross Orders that would be available on the Exchange. Paragraph (g) would set forth the requirements that would be applicable to all Cross Orders. As proposed, a Cross Order would be two-sided orders with instructions to match the identified buy-side with the identified sell-side at a specified price (the ''cross price''). This proposed rule text is based on the first sentence of NYSE Arca Rule 7.31–E(g) and NYSE National Rule 7.31(g).

Proposed Rule 7.31(g) would further provide that a Cross Order must trade in full at its cross price, does not route, and may be designated with non-regular way settlement instructions (which are described below). This proposed rule text is based in part on NYSE Arca Rule 7.31–E(g)(1) and NYSE National Rule 7.31(g)(1), which provide that Cross Orders on those exchanges must trade in full at its cross price and will not route. The proposed text to permit a Cross Order to be designated with non-regular way settlement instructions is based on current Article 1, Rule 2(e)(2) without any substantive differences, which provides that the Matching System [33] will only accept cross orders for Non-Regular Way Settlement. The Exchange proposes non-substantive differences to include reference to non-regular way settlement instructions in the description of Cross Orders.

Proposed Rule 7.31(g) would further provide that a Cross Order entered by an Institutional Broker may represent interest of one or more Participants and may be executed as agent or principal. This proposed rule text is based in part on current Article 1, Rule 2(b)(2)(E), which provides that Institutional Brokers may execute a cross order as agent or principal, and Article 1, Rule 2(g)(1), which provides that a cross order with Cross with Size may represent interest of one or more Participants of the Exchange. On Pillar,

[26] The Exchange has an agreement with FINRA pursuant to Rule 17d–2 under the Act. *See* Securities Exchange Act Release No. 86161 (June 20, 2019), 84 FR 29923 (June 25, 2019) (File No. 4–274) (Approval Order).

[27] *See* Article 1, Rule 2(b)(2)(A), (D), and (E).

[28] *See* Article 1, Rule 2(g)(1). To be eligible for Cross with Size, there cannot be any resting orders on the Book with a Working Price better than the cross order and the size of the cross order must be larger than the largest order displayed on the Exchange at that price.

[29] *See* Article 1, Rule 2(e)(2). Under this Rule, the Exchange currently uses the capitalized term ''Non-Regular Way Settlement.'' Under the proposed Pillar rules, the Exchange will not capitalize this term.

[30] *See* Article 20, Rule 4(a)(7)(B). Unless a cross order is a Midpoint Cross, is designated with non-regular way settlement instructions, or is Cross with Size, the Exchange will not currently allow a cross order priced (i) at or above $1.00, to execute at a price less than $0.01 better than any order on the same side of the Matching System or (ii) under $1.00, to execute at a price less than $0.0001 better than any order on the same side of the Matching System.

[31] The BBO is defined on NYSE Arca and NYSE National, and as described above, would be defined on the Exchange under proposed Rule 1.1(c) to mean the best bid or offer that is a Protected Quotation on the Exchange. The term ''BB'' would mean the best bid that is a Protected Quotation on the Exchange and the term ''BO'' would mean the best offer that is a Protected Quotation on the Exchange. Pursuant to proposed Rule 1.1(r) [sic], the term ''Protected Quotation'' would mean a Protected Bid or Protected Offer and references definitions under Rule 600(b) of Regulation NMS. Odd-lot sized bids and offers are not Protected Quotations.

[32] The term PBBO is defined on NYSE Arca and NYSE National, and as described above, would be defined on the Exchange under proposed Rule 1.1(o) [sic] to mean the best Protected Bid and the Best Protected Offer, as those terms are defined in Rule 600(b)(57) of Regulation NMS.

[33] The term ''Matching System'' is defined in Article 1, Rule 1(z) as one of the electronic or automated order routing, execution and reporting systems provided by the Exchange. The Exchange does not propose to use this term when it transitions to Pillar.

the Exchange proposes that any Cross Order entered by an Institutional Broker may represent interest of one or more Participants on the Exchange.

Proposed Rule 7.31(g)(1) would set forth the proposed ''Limit IOC Cross Order,'' which is based in part on how the Limit IOC Cross Order functions on NYSE Arca and NYSE National. This would be new functionality on the Exchange. As proposed, a Limit IOC Cross Order would be a Cross Order that would be rejected under the following circumstance: (A) The cross price would trade through the PBBO; (B) the cross price is not between the BBO, unless it meets Cross with Size requirements, in which case the cross price may be equal to the BB (BO); or (C) there is no PBB or PBO or the PBBO is locked or crossed. This proposed rule text differs from the NYSE Arca and NYSE National rules to account for the availability of the Cross with Size modifier, described below. As proposed, the Limit IOC Cross Order would be available to any Participant.

Proposed Rule 7.31(g)(2) would set forth how the QCT Cross Order would function on the Exchange. As proposed, a QCT Cross Order would be a Cross Order that is part of a transaction consisting of two or more component orders that qualifies for a Contingent Order Exemption under proposed Rule 7.37(e)(5).

Proposed Rule 7.37(f)(5), which is based on NYSE Arca Rule 7.37–E(f)(5) and NYSE National Rule 7.37(f)(5), would set forth the requirements for a transaction to qualify as a QCT Cross Order. Proposed Rule 7.37(f)(5)(A)–(F) would set forth identical requirements as are set forth in Article 1, Rule 2(b)(2)(E)(i)–(vi). Specifically, a QCT would be a transaction consisting of two or more component orders, executed as agent or principal, where:

- at least one component order is in an NMS Stock;
- all components are effected with a product or price contingency that either has been agreed to by the respective counterparties or arranged for by a broker-dealer as principal or agent;
- the execution of one component is contingent upon the execution of all other components at or near the same time;
- the specific relationship between the component orders (*e.g.,* the spread between the prices of the component orders) is determined at the time the contingent order is placed;
- the component orders bear a derivative relationship to one another, represent different classes of shares of the same issuer, or involve the securities of participants in mergers or with intentions to merge that have been announced or since cancelled; and
- the Exempted NMS Stock Transaction is fully hedged (without regard to any prior existing position) as a result of the other components of the contingent trade.

Proposed Rule 7.31(g)(2)(A) would provide that a QCT Cross Order would be rejected if the cross price is not between the BBO, unless it meets Cross with Size requirements, in which case the cross price can be equal to the BB (BO) (as discussed in greater detail below). This proposed functionality would be new on the Exchange and is based on how Cross Orders function on NYSE Arca and NYSE National. Specifically, as noted above, Cross Orders on those exchanges can execute provided that the cross price is between the BBO. Because Cross Orders on Pillar function in this manner, the Exchange proposes to apply this functionality when it transitions QCT Cross Orders to Pillar.

Proposed Rule 7.31(g)(2)(B) would further provide that QCT Cross Orders would be available to Institutional Brokers only. This proposed rule text is based on Article 1, Rule 2(b)(2)(E), which provides that a QCT cross order modifier may only be utilized by an Institutional Broker.

Proposed Rule 7.31(g)(3) would describe the proposed Cross with Size requirements. As proposed, a Cross Order with a cross price equal to the BB (BO) will trade at that price if such Cross Order: (A) Is at least 5,000 shares of the same security with a total value of at least $100,000; and (B) is larger than the largest order displayed on the Exchange Book at the BB (BO). This proposed rule text is based in part on Article 1, Rule 2(g)(1) with differences to reflect that on Pillar, Cross Orders would be eligible to execute if the cross price is between the BBO, regardless of the size of the Cross Order. With this difference in functionality, Cross with Size would only be necessary if the proposed cross price is equal to the BB (BO). In such case, if a Cross Order meets the size requirement and is larger than the largest order displayed on the Exchange Book at the BB (BO), the Exchange would accept and execute such Cross Order.

As noted above, consistent with current Rules, the Exchange would accept Cross Orders with non-regular way settlement instructions. NYSE Arca Rule 7.8–E and NYSE National Rule 7.8 provide that on those exchanges, all bids and offers will be considered to be ''regular way'' settlement instructions. To address that the Exchange would accept non-regular way settlement instructions for Cross Orders, the Exchange proposes Rule 7.8A, which would describe the settlement terms for Cross Orders.

To maintain continuity with the Pillar rules of Affiliated Exchanges, proposed Rule 7.8 would be based on NYSE Arca Rule 7.8–E and NYSE National Rule 7.8 and would provide that except as provided for in proposed Rule 7.8A, bids and offers would be considered to be ''regular way'' settlement terms.

Proposed Rule 7.8A would specify Cross Order settlement terms. Proposed Rule 7.8A(a) would provide that Cross Orders would be considered to be ''regular way'' settlement terms unless designated with one of the following ''non-regular way'' settlement terms: Cash or Next Day. This proposed rule text is based in part on current Article 20, Rule 4(a)(7)(A), which provides that a cross order may be submitted for Non-Regular Way Settlement, and current Article 1, Rule 2(e)(2), which provides that cross orders may be settled with one of three conditions: Cash, Next Day, or Seller's Option. On Pillar, the Exchange does not propose to offer Seller's Option non-regular way settlement instructions.

Proposed Rule 7.8A(a) would further provide that a Cross Order designated for ''non-regular way'' settlement may execute at any price without regard to the PBBO or any orders on the Exchange Book. This proposed rule text is based in part on current Article 1, Rule 2(e)(2), which provides that a cross order marked for Non-Regular Way Settlement may execute at any price, without regard to the NBBO or any other orders in the Matching System.[34] The Exchange proposes non-substantive differences to use Pillar terminology without any substantive differences, including that the Exchange uses the PBBO instead of NBBO.

Proposed Rule 7.8A(a)(1) would provide that ''Cash'' means a transaction for delivery on the next day of the contract. This proposed rule text is based on the first sentence of current Article 1, Rule 2(e)(2)(A) without any differences. The Exchange does not propose rule text based on the second sentence of Article 1, Rule 2(e)(2)(A), which provides any cross order that is for cash settlement must be received by the Matching System by 2:00 p.m. Central Standard Time or such other time that may be established by the

[34] *See also* Article 20, Rule 8(e)(3), which similarly provides that cross orders with Non-Regular Way Settlement shall be automatically executed without regard to either the NBBO or any orders for Regular Way Settlement that might be in the Matching System if they meet the requirements for Article 1, Rule 2(e)(2).

Exchange and communicated to Participants from time to time. On Pillar, the Exchange will accept a Cross Order with Cash instructions after 3:00 p.m. Eastern Time. Pursuant to National Securities Clearing Corporation (''NSCC'') Procedure II (Trade Comparison and Recording Service), Section B(ii), NSCC designates a cut-off time by which a transaction designated as Cash can be settled on those terms, and transactions received after that time will be accepted and reported, but may only be settled directly between the parties.[35] Because such trades would settle, the Exchange proposes not to reject transactions designated as ''Cash'' that are entered after the NSCC cut-off time.

Proposed Rule 7.8A(a)(2) would provide that ''Next Day'' means a transaction for delivery on the next business day following the day of the contract. This proposed rule text is based on current Article 1, Rule 2(e)(2)(B) without any differences.

Proposed Rule 7.6 would specify the trading differentials available on the Exchange. The first sentence would provide that, except for Cross Orders, the minimum price variation (''MPV'') for quoting and entry of orders in securities traded on the Exchange would be $0.01, with the exception of securities that are priced less than $1.00, for which the MPV for quoting and entry of orders would be $0.0001. This proposed rule text is based on NYSE Arca Rule 7.6–E and NYSE National Rule 7.6 with one difference to reference the exception for Cross Orders.

Proposed Rule 7.6 would further provide that:

> A Cross Order, whether priced less than or at or above $1.00, may be submitted in an increment as small as $0.000001 unless the Cross Order has been designated with regular way settlement terms and does not meet Cross with Size, in which case the cross price must also be (i) at least $0.01 above (below) the BB (BO) if the cross price is at or above $1.00 or (ii) at least $0.0001 above (below) the BB (BO) if the cross price is under $1.00.

This proposed rule text is based on Article 20, Rule 4(a)(7)(B) without any substantive differences. Because the Exchange will not be offering a Midpoint Cross, that order type does not need to be referenced in the Pillar version of this rule. The remaining differences are non-substantive, to use Pillar terminology.

Finally, proposed Rule 7.32 (Order Entry) would establish requirements for order entry size and that orders entered that are greater than five million shares in size would be rejected, provided that the Exchange would accept Cross Orders up to 25 million shares. The proposed rule is based in part on NYSE National Rule 7.32 and NYSE Arca Rule 7.32–E. Similar to NYSE Rule 7.32, the Exchange proposes to accept Cross Orders that are up to 25 million shares in size.

Because proposed Rule 7.32 would address order entry size, the Exchange proposes that Article 20, Rule 4(a)(6) would not be applicable to trading on Pillar.

Proposed Amendments to Current Exchange Rules

As described above, a number of current Exchange rules will not be applicable to trading on Pillar and the Exchange will include a preamble for those rules (or Articles, if all rules under an Article would not be applicable to trading on Pillar) that will specify that such rule or Article would not be applicable to trading on Pillar.

In the above section, the Exchange identifies specified current Exchange rules, or sections of rules, that would not be applicable to trading on Pillar because they will be superseded by a proposed Pillar rule.

In addition to the above-referenced current rules, the Exchange proposes that the entirety of Article 4 would not be applicable to trading on Pillar. Article 4, Rule 1 currently describes the Exchange's Book Feed. Once the Exchange transitions to Pillar, it will no longer offer the Book Feed. The Exchange proposes to file a separate proposed rule change to establish the market data products that will be available when the Exchange transitions to Pillar.[36] In addition, because the Exchange does not currently offer the Connect service, and does not plan to offer the Connect service when it transitions to Pillar, the Exchange proposes to delete Article 4, Rule 2 in its entirety.

The following is the full list of current rules that would not be applicable to trading on Pillar and therefore would include the above-described preamble:

- Article 1, Rule 1(a), (e), (f), (g), (k), (l), (o), (z), (bb), (cc), (dd), (nn), (pp), (qq), (tt), and (uu)
- Article 1, Rule 2
- Article 1, Rule 3
- Article 1, Rule 4
- Article 3, Rule 21
- Article 4 (in its entirety)
- Article 5, Rule 1
- Article 8, Rule 17
- Article 9, Rule 23
- Article 11, Rule 3(b)(8)
- Article 16 (in its entirety)
- Article 19 (in its entirety)
- Article 20, Rules 1–8, 10, 12–13
- Article 22, Rule 6(a)(3)

In addition to rules not applicable to trading on Pillar, the Exchange proposes to amend specified rules that would continue to be applicable to trading once the Exchange transitions to Pillar, but reference systems or definitions that would not be used on Pillar.

As noted above, the Exchange will continue to support Institutional Brokers and the BrokerPlex system when the Exchange transitions to the Pillar trading platform. The Exchange proposes to amend specified rules under Article 17 to add a reference to the term ''NYSE Chicago Marketplace'' in any rule that references the term ''Matching System.'' While the term ''Matching System'' is not explicitly defined in current Exchange rules, it is used throughout Exchange rules to refer to the current system that matches orders.[37] Because the Exchange will be replacing that system when it transitions to Pillar, to reduce confusion about which Exchange systems are referenced in Article 17, the Exchange proposes to add the phrase ''NYSE Chicago Marketplace, as applicable'' in Article 17, Rule 3(b), 5(a), 5(c)(1), 5(c)(2), 5(e), and 5(e)(1) as an alternative to the term ''Matching System.'' The Exchange also proposes to add a cross reference to proposed Rule 7.31 in Article 17, Rules 5(c)(1) and 5(e)(1).

The Exchange further proposes to amend Article 17, Rule 5(c)(1) to specify order types and modifiers that would be defined under proposed Rule 7.31 that would not be available via BrokerPlex. As proposed, an Institutional Broker would not be able to enter the following order types and modifiers via BrokerPlex: Inside Limit Orders, Auction-Only Orders, MPL Orders, Tracking Orders, ISOs, Primary Only Orders, Primary Until 9:45 Orders, Primary After 3:55 Orders, Pegged Orders, Non-Display Remove Modifier,

[35] *See* NSCC Rules and Procedures, available here: *http://www.dtcc.com/legal/rules-and-procedures.*

[36] NYSE National also filed a stand-alone filing to establish the market data products that would be available on that exchange when it began trading on Pillar. *See* Securities Exchange Act Release No. 83350 (May 31, 2018), 83 FR 26332 (June 6, 2018) (SR–NYSENat–2018–09) (Notice of filing and immediate effectiveness of proposed rule change). Similar to NYSE National, the Exchange will be separately proposing to establish NYSE Chicago BBO, NYSE Chicago Trades, and NYSE National Integrated Feed Market Data feeds. As with the current Book Feed, the Exchange does not propose to charge fees for market data products when it transitions to Pillar.

[37] *See, e.g.* Article 20 (Operation of the Matching System). The Exchange also proposes a non-substantive amendment to the second sentence of Article 17 Rule 5(a) to delete the word ''Exchange'' in front of the term ''Matching System.''

Proactive if Locked or Crossed Modifier, Self-Trade Prevention Modifier, and Minimum Trade Size Modifier. While these order types would not be available via Brokerplex, an Institutional Broker could enter these orders via any other system that they choose to use to connect with the Exchange, just as any other NYSE Chicago Participant could choose to do.

The Exchange also proposes to amend Article 17, Rule 5(c)(3) to specify current order types that would not be available on Pillar. Current Article 17, Rule 5(c)(3) provides that in addition to the orders described in Rule 5(c)(1) and (2), BrokerPlex also accepts ''Quote@ Exchange'' and ''Reprice@Exchange'' order types. Because neither of these order types will be accepted once the Exchange transitions to Pillar, the Exchange proposes to amend Article 17, Rule 5(c)(3) to provide that these order types would not be available on the Pillar trading system.

Finally, the Exchange proposes to amend Article 12, Rule 8(h)(2) relating to the Exchange's Minor Rule Violations Plan (''MRVP'') both (i) to delete a reference to rules that no longer exist and (ii) to add proposed Pillar rules that are subject to an Affiliated Exchange's minor rule violation plan and that the Exchange similarly believes that should be subject to the Exchange's MRVP.

- First, the Exchange proposes to amend Article 12, Rule 8(h)(2)(F) to delete the reference to ''Failure to Clear the Matching System (Article 20, Rule 7)'' as this rule was eliminated in 2011 and the Exchange no longer needs a reference to this Rule in its Minor Rule Violation Plan.[38]
- Second, the Exchange proposes to amend Article 12, Rule 8(h)(2)(G) to add a reference to Rule 7.6. The current rule provides that Article 20, Rule 4, which addresses the minimum order increments, would be eligible for the MRVP. Because on Pillar, proposed Rule 7.6 would address minimum order increments, the Exchange proposes to add a reference to this rule, which would have the same substantive effect as current Article 12, Rule 8(h)(2)(G) after the Exchange transitions to Pillar.
- Finally, the Exchange proposes to amend Article 12, Rule 8(h)(2) to add two additional rules that the Exchange proposes to be eligible for the Exchange's MRVP. Proposed Article 12, Rule 8(h)(2)(M) would add a reference to ''Short Sales (Rule 7.16)'' and proposed Article 12, Rule 8(h)(2)(N) would add a reference to ''Failure to comply with Authorized Trader requirements (Rule 7.30).'' These proposed rule changes are based on NYSE Arca Rule 10.9217(f)(1) and (4) and NYSE National Rule 10.9217(f)(1)(1) and (3), which both provide that their versions of Rule 7.16 and 7.30 are eligible for those exchanges' respective minor rule violation plans. Accordingly, the Exchange similarly proposes that these rules should be included on the Exchange's MRVP.

3. Section 11(a) of the Act

Section 11(a)(l) of the Act[39] (''Section 11(a)(1)'') prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises investment discretion (collectively, ''covered accounts'') unless an exception to the prohibition applies. Rule 11a2–2(T) under the Act (''Rule 11a2–2(T)''),[40] known as the ''effect versus execute'' rule, provides exchange members with an exemption from the Section 11(a)(l) prohibition. Rule 11a2–2(T) permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute the transactions on the exchange. To comply with Rule 11a2–2(T)'s conditions, a member: (i) Must transmit the order from off the exchange floor; (ii) may not participate in the execution of the transaction once it has been transmitted to the member performing the execution (although the member may participate in clearing and settling the transaction); (iii) may not be affiliated with the executing member; and (iv) with respect to an account over which the member or its associated person has investment discretion, neither the member nor its associated person may retain any compensation in connection with effecting the transaction except as provided in the Rule.

With the proposed re-launch of the Exchange as a fully automated electronic trading model that does not have a trading floor, the Exchange believes that the policy concerns Congress sought to address in Section 11(a)(1)—*i.e.,* the time and place advantage that members on exchange trading floors have over non-members off the floor and the general public—would not be present. Specifically, on the Pillar trading system, buy and sell interest will be matching in a continuous, automated fashion. Liquidity will be derived from quotes as well as orders to buy and orders to sell submitted to the Exchange electronically by Participants from remote locations. The Exchange further believes that Participants entering orders into the Exchange through the Pillar trading system will satisfy the requirements of Rule 11a2–2(T) under the Act, which provides an exception to Section 11(a)'s general prohibition on proprietary trading.

The four conditions imposed by the ''effect versus execute'' rule are designed to put members and non-members of an exchange on the same footing, to the extent practicable, in light of the purpose of Section 11(a). For the reasons set forth below, the Exchange believes the structure and characteristics of its proposed Pillar trading system do not result in disparate treatment of members and non-members and places them on the ''same footing'' as intended by Rule 11a2–2(T).

1. Off-Floor Transmission. Rule 11a2–2(T) requires orders for a covered account transaction to be transmitted from off the exchange floor. The Commission has considered this and other requirements of the rule in the context of automated trading and electronic order handling facilities operated by various national securities exchanges in a 1979 Release[41] as well as more applications of Rule 11a2–2(T) in connection with the approval of the registrations of national securities exchanges.[42] In the context of these automated trading systems, the Commission has found that the off-floor transmission requirement is met if an order for a covered account is transmitted from a remote location directly to an exchange's floor by electronic means.[43] Because the

[38] *See* Securities Exchange Act Release No. 65633 (October 26, 2011), 76 FR 67509 (November 1, 2011) (SR–CHX–2011–29) (Approval Order).

[39] 15 U.S.C. 78k(a)(1).

[40] 17 CFR 240.11a2–2(T).

[41] *See* Securities Exchange Act Release No. 15533 (January 29, 1979) (regarding the Amex Post Execution Reporting System, the Amex Switching System, the lntermarket Trading System, the Multiple Dealer Trading Facility of the Cincinnati Stock Exchange, the PCX's Communications and Execution System (''COM EX''), and the Phlx's Automated Communications and Execution System (''PACE'')) (''1979 Release'').

[42] *See* Securities Exchange Act Release Nos. 53128 (January 13, 2006) 71 FR 3550 (January 23, 2006) (File No. 10–13 1) (order approving Nasdaq Exchange registration); 58375 (August 18, 2008) 73 FR 49498 (August 21, 2008) (order approving BATS Exchange registration); 61152 (December 10, 2009) 74 FR 66699 (December 16, 2009) (order approving C2 exchange registration); and 78101 (June 17, 2016), 81 FR 41142, 41164 (June 23, 2016) (order approving Investors Exchange LLC registration).

[43] *See, e.g.,* Securities Exchange Act Release Nos. 49068 (January 13, 2004), 69 FR 2775 (January 20, 2004) (order approving the Boston Options Exchange as an options trading facility of the Boston Stock Exchange); 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (order approving Archipelago Exchange (''ArcaEx'') as electronic trading facility of the Pacific Exchange

Exchange would not have a physical trading floor when it re-launches trading, and like other all electronic exchanges, the Exchange's Pillar trading system would receive orders from Participants electronically through remote terminals or computer-to-computer interfaces, the Exchange therefore believes that its trading system satisfies the off-floor transmission requirement.

2. Non-Participation in Order Execution. The ''effect versus execute'' rule further provides that neither the exchange member nor an associated person of such member participate in the execution of its order. This requirement was originally intended to prevent members from using their own brokers on an exchange floor to influence or guide the execution of their orders.[44] The rule, however, does not preclude members from cancelling or modifying orders, or from modifying instructions for executing orders, after they have been transmitted, provided such cancellations or modifications are transmitted from off an exchange floor.[45] In the 1979 Release discussing both the Pacific Stock Exchange's COM EX system and the Philadelphia Stock Exchange's PACE system, the Commission noted that a member relinquishes any ability to influence or guide the execution of its order at the time the order is transmitted into the systems, and although the execution is automatic, the design of such systems ensures that members do not possess any special or unique trading advantages in handling orders after transmission to the systems.[46] The Exchange's Pillar trading system would at no time following the submission of an order allow a Participant or an associated person of such member to acquire control or influence over the result or timing of an order's execution. The execution of a Participant's order would be determined solely by what quotes and orders are present in the system at the time the Participant submits the order and the order priority based on Exchange rules. Therefore, the Exchange believes the non-participation requirement would be met through the submission and execution of orders in the Exchange's Pillar trading system.

3. Execution Through an Unaffiliated Member. Although Rule 11a2–2(T) contemplates having an order executed by an exchange member, unaffiliated with the member initiating the order, the Commission has recognized the requirement is satisfied where automated exchange facilities are used as long as the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange. In the 1979 Release, the Commission noted that while there is not an independent executing exchange member, the execution of an order is automatic once it has been transmitted into the systems. Because the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange, the Commission has stated that executions obtained through these systems satisfy the independent execution requirement of Rule 11a2–2(T). Because the design of the Exchange's Pillar trading system ensures that no Participant has any special or unique trading advantages over nonmembers in the handling of its orders after transmitting its orders to the Exchange, the Exchange believes that its Pillar trading system would satisfy this requirement.

4. Non-Retention of Compensation for Discretionary Accounts. Finally, Rule 11a2–2(T) states, in the case of a transaction effected for the account for which the initiating member or its associated person exercises investment discretion, in general, the member or its associated person may not retain compensation for effecting the transaction, unless the person authorized to transact business for the account has expressly provided otherwise by written contract referring to both Section 11(a) of the Exchange Act and Rule 11a2–2(T). The Exchange will advise its membership through the issuance of a Regulatory Bulletin that those Participants trading for covered accounts over which they exercise investment discretion must comply with this condition in order to rely on the exemption in Rule 11a2–2(T) from the prohibition in Section 11(a) of the Exchange Act.

In conclusion, the Exchange believes that its Pillar trading system would satisfy the four requirements of Rule 11a2–2(T) as well as the general policy objectives of Section 11(a). The Exchange's proposed Pillar trading system would place all users, members and non-members, on the ''same footing'' with respect to transactions on the Exchange for covered accounts as intended by Rule 11a2–2(T). As such, no Exchange Participant would be able to engage in proprietary trading in a manner inconsistent with Section 11(a).

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[47] As noted above, at this time, the Exchange is not proposing to offer rules for market makers on the Exchange and, therefore, proposes to designate Section 2 as ''Reserved.'' The Exchange further proposes that Article 16 in its entirety would not be applicable to trading on Pillar.

Section 3 of proposed Rule 7 would establish the Exchange's trading rules. Among other things, these rules would establish the orders and modifiers that would be available on the Exchange (proposed in general, and furthers the objectives of Section 6(b)(5),[48] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

Generally, the Exchange believes that the proposed rules would support the migration of the Exchange to the Pillar trading system as a fully automated cash equities trading market with a price-time priority model that is based both on the rules of its affiliated exchanges, NYSE Arca and NYSE National, and with respect to Cross Orders, the Exchange's current rules. The Exchange is not proposing any new or novel rules. The proposed rule changes relating to trading would therefore remove impediments to and perfect the mechanism of a free and open market and a national market system because they are based on the approved rules of other exchanges.

Proposed Rules Based on the Rules of the Exchange's Affiliates

Regulation of the Exchange (Rule 0) and Definitions (Rule 1)

The Exchange believes that proposed Rule 0 would remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest because it would specify the role of FINRA, pursuant to a Regulatory Services Agreement, to perform certain

(''PCX'')(''Arca Ex Order'')); 29237 (May 24, 1991), 56 FR 24853 (May 31, 1991) (regarding NYSE's Off-Hours Trading Facility); 15533 (January 29, 1979); and 14563 (March 14, 1978), 43 FR 11542 (March 17, 1978) (regarding the NYSE's Designated Order Turnaround System (''1978 Release'')).

[44] *Id.* 1978 Release, *supra* note 43.

[45] *Id.*

[46] 1979 Release, *supra* note 41.

[47] 15 U.S.C. 78f(b).

[48] 15 U.S.C. 78f(b)(5).

regulatory functions of the Exchange on behalf of the Exchange.

The Exchange further believes that proposed Rule 1 would remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest because the proposed definitions are terms that would be used in the additional rules proposed by the Exchange. Proposed Rule 1 would therefore promote transparency in Exchange rules by providing for definitional terms that would be used throughout the rulebook.

Equities Trading Rules (Proposed Rule 7)

A. Proposed Rules Based on NYSE Arca and NYSE National

The Exchange believes that proposed Rule 7 and the rules thereunder that are based on the rules of NYSE Arca and NYSE National (proposed Rules 7.5, 7.7, 7.9, 7.10, 7.11, 7.12, 7.16, 7.17, 7.18, 7.29, 7.30, 7.31, 7.33, 7.34, 7.36, 7.37, 7.38, 7.40 and 7.45) would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would establish rules relating to trading on the Exchange that would support the re-launch of Exchange trading as a fully automated trading market on Pillar with a price-time priority trading model. The proposed rules are based on the rules of NYSE Arca and NYSE National, as applicable, and include rules governing orders and modifiers, ranking and display, execution and routing, and trading sessions. The Exchange believes that because it would not be a primary listing exchange, it would be consistent with the protection of investors and the public interest not to include rules relating to auctions or lead or designated market makers. Other than substantive differences to the proposed rules relating to the difference that the Exchange would not operate auctions, the proposed rules are not novel, and are based on the rules of NYSE Arca and NYSE National. The Exchange believes that having Pillar rules that are based on the rules of NYSE Arca and NYSE National would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would promote consistency among the Exchange and the Affiliated Exchanges, thereby making Exchange rules easier to navigate for those Exchange Participants that are also members of one or more Affiliated Exchange.

B. Proposed Rules Relating to Cross Orders

As noted above, when it transitions to Pillar, the Exchange will continue to support Institutional Brokers on the Exchange consistent with current Article 17, including making BrokerPlex available to Institutional Brokers. To support Institutional Brokers, the Exchange proposes a difference from its Affiliated Exchanges by continuing to support Cross Orders and related functionality that is currently available on the Exchange, with specified differences.

Specifically, the Exchange believes that proposed Rule 7.31(g), relating to Cross Orders, would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed rule would provide for both Limit IOC Cross Orders, which are based on the rules of NYSE Arca and NYSE National, and QCT Cross Orders, which are currently available on the Exchange. The Exchange believes that the proposed differences in how QCT Cross Orders would function on Pillar as compared to the current Rules would remove impediments to and perfect the mechanism of a free and open market because it would apply Cross Order functionality that has been approved on NYSE Arca and NYSE National, *i.e.,* the ability to execute a Cross Order if the cross price is between the BBO, to existing QCT Cross Order functionality, as described in current Exchange rules. How QCT Cross Orders would otherwise function on Pillar would not differ substantively from how such orders currently function. The Exchange believes that the proposed non-substantive rule differences to use Pillar terminology to describe QCT Cross Orders would remove impediments to and perfect the mechanism of a free and open market and a national market system because using Pillar terminology would promote transparency and consistency in Exchange rules.

The Exchange believes that offering Limit IOC Cross Orders would remove impediments to and perfect the mechanism of a free and open market because the proposed order type is based on the approved rules of NYSE Arca and NYSE National. In addition, the proposed Limit IOC Cross Order would provide Participants that are not Institutional Brokers with an opportunity to send Cross Orders to the Exchange. The Exchange further believes that eliminating Benchmark and Midpoint Cross orders would remove impediments to and perfect the mechanism of a free and open market and a national market system because the Exchange would be streamlining its offerings and eliminating little-used order types.

How Cross Orders would function on the Exchange would otherwise be based on current Exchange rules, with non-substantive differences to use Pillar terminology, including the availability of non-regular way settlement instructions (proposed Rule 7.8A), entering such orders in an increment as small as $0.000001 (proposed Rule 7.6), and the availability of Cross with Size (proposed Rule 7.31(g)(3)). The Exchange believes that these proposed rules would remove impediments to and perfect the mechanism of a free and open market because they would provide continuity to Institutional Brokers regarding how Cross Orders would function after the Exchange transitions to Pillar. The Exchange similarly believes that proposed Rule 7.32, and in particular, the ability for Cross Orders to be entered up to 25 million shares in size, would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would promote the entry of larger-sized Cross Orders on the Exchange. This proposed rule change is not novel and is based on NYSE Rule 7.32.

Proposed Amendments to Current Exchange Rules

The Exchange believes that the proposed amendments to Article 17 to add references to the NYSE Chicago Marketplace and amendments to Article 17, Rule 5 to specify which order types would not be available via BrokerPlex would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed changes are designed to promote transparency in Exchange rules of how BrokerPlex would function once the Exchange transitions to Pillar.

The Exchange further believes that the proposed amendments to Article 12, Rule 8 relating to which rules are eligible for the MRVP are designed to prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade because they add Pillar rules to the Exchange's MRVP that have previously been approved by the Commission to be included in the minor rule violation plans of NYSE Arca and NYSE National, thus promoting consistency among the Affiliated Exchanges of which rules would be eligible for the MRVP. The proposed amendments would also promote transparency by eliminating an obsolete rule from the MRVP and

updating a rule cross reference for an existing rule that is eligible for MRVP.

The Exchange further believes that it would remove impediments to and perfect the mechanism of a free and open market and a national market system to specify which current rules would not be applicable to trading on the Pillar trading platform. The Exchange believes that the following legend, which would be added to existing rules, ''This Rule is not applicable to trading on the Pillar trading platform,'' would promote transparency regarding which rules would govern trading on the Exchange on Pillar. The Exchange has proposed to add this legend to rules that would be superseded by proposed rules or rules that would not be applicable because they relate to functions that would not be available when the Exchange transitions to Pillar.

Section 11(a) of the Act

For reasons described above, the Exchange believes that the proposal for the Exchange to operate on a fully automated trading market without a Floor is consistent with Section 11(a) of the Act and Rule 11a2–2(T) thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is designed to provide for trading rules to support the migration to the Pillar trading platform consistent with the Framework Filing. The Exchange operates in a highly competitive environment in which its unaffiliated exchanges competitors operate multiple affiliated exchanges that operate under common rules. By proposing rules based on the rules of its affiliated exchanges, the Exchange believes that it will be able to compete on a more level playing field with its exchange competitors that similarly trade NMS Stocks on fully automated trading models. In addition, by basing its rules on those of its affiliated exchanges, the Exchange will provide its Participants with consistency across affiliated exchanges, thereby enabling the Exchange to compete with unaffiliated exchange competitors that similarly operate multiple exchanges on the same trading platforms.

In addition, the Exchange does not believe that the proposed rule change will impose any burden on competition on its Participants that is not necessary or appropriate in furtherance of the purposes of the Act because the Exchange proposes to retain rules governing Participant membership and conduct and therefore such Participants would not need to update internal procedures in connection with the migration of the Exchange to the Pillar trading platform. The Exchange further believes that the proposed rule change would promote consistency and transparency on both the Exchange and its affiliated exchanges, thus making the Exchange's rules easier to navigate.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSECHX–2019–08 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSECHX–2019–08. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet 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–2019–08 and should be submitted on or before September 16, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[49]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–18269 Filed 8–23–19; 8:45 am]

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SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2018–0023]

Social Security Ruling, SSR 19–4p; Titles II and XVI: Evaluating Cases Involving Primary Headache Disorders

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling (SSR).

SUMMARY: We are providing notice of SSR 19–4p. This SSR provides guidance on how we establish that a person has a medically determinable impairment of a primary headache disorder and how we evaluate primary headache disorders in disability claims under titles II and XVI of the Social Security Act.

DATES: We will apply this notice on August 26, 2019.

FOR FURTHER INFORMATION CONTACT: Cheryl A. Williams, Office of Medical Policy, Social Security Administration,

[49] 17 CFR 200.30–3(a)(12).

6401 Security Boulevard, Baltimore, Maryland 21235–6401, (410) 965–1020. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our internet site, Social Security Online, at *http://www.socialsecurity.gov*.

SUPPLEMENTARY INFORMATION: Although 5 U.S.C. 552(a)(1) and (a)(2) do not require us to publish this SSR, we are doing so in accordance with 20 CFR 402.35(b)(1).

Through SSRs, we make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and special veterans' benefits programs. We may base SSRs on determinations or decisions made at all levels of administrative adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, or other interpretations of the law and regulations.

Although SSRs do not have the same force and effect as statutes or regulations, they are binding on all of our components in accordance with 20 CFR 402.35(b)(1) and are binding as precedents in adjudicating cases.

This SSR will remain in effect until we publish a notice in the **Federal Register** that rescinds it, or we publish a new SSR that replaces or modifies it. (Catalog of Federal Domestic Assistance, Programs Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; 96.006, Supplemental Security Income.)

Andrew Saul,

Commissioner of Social Security.

Policy Interpretation Ruling

Titles II and XVI: Evaluating Cases Involving Primary Headache Disorders

Purpose: This SSR provides guidance on how we establish that a person has a medically determinable impairment (MDI) of a primary headache disorder and how we evaluate primary headache disorders in disability claims under titles II and XVI of the Social Security Act (Act).[1]

Citations: Sections 216(i), 223(d), 223(f), 1614(a)(3) and 1614(a)(4) of the Social Security Act, as amended; Regulations No. 4, subpart P, sections 404.1502, 404.1505, 404.1509, 404.1512, 404.1513, 404.1520, 404.1520a, 404.1520b, 404.1521–404.1523, 404.1525, 404.1526, 404.1529, 404.1545, 404.1560, 404.1562–404.1569a, 404.1593, 404.1594, appendices 1 and 2; and Regulations No. 16, subpart I, sections 416.902, 416.905, 416.906, 416.909, 416.912, 416.913, 416.920, 416.920a, 416.920b, 416.921–416.924, 416.924a, 416.925, 416.926, 416.926a, 416.929, 416.945, 416.960, 416.962–416.969a, 416.987, 416.993, 416.994, and 416.994a.

Introduction

Primary headache disorders are among the most common disorders of the nervous system.[2] Examples of these disorders include migraine headaches, tension-type headaches, and cluster headaches. We are issuing this SSR to explain our policy on how we establish that a person has an MDI of a primary headache disorder and how we evaluate primary headache disorders in disability claims. In 2018, the Headache Classification Committee of the International Headache Society published the third edition of the International Classification of Headache Disorders (ICHD–3).[3] The ICHD–3 provides classification of headache disorders and diagnostic criteria for scientific, educational, and clinical use. We referred to the ICHD–3 criteria in developing this SSR.

We consider a person age 18 or older disabled if he or she is unable to engage in any substantial gainful activity due to any medically determinable physical or mental impairment(s) that can be expected to result in death, or that has lasted or can be expected to last for a continuous period of not less than 12 months.[4] In our sequential evaluation process, we determine whether a medically determinable physical or mental impairment is severe at step 2.[5] A severe MDI or combination of MDIs significantly limits a person's physical or mental ability to do basic work activities. We require that the MDI(s) result from anatomical, physiological, or psychological abnormalities that can be shown by medically acceptable clinical and laboratory diagnostic techniques.[6] Our regulations further require that the MDI(s) be established by objective medical evidence[7] from an acceptable medical source (AMS).[8] We will not use a person's statement of symptoms, a diagnosis, or a medical opinion to establish the existence of an MDI(s).[9] We also will not make a finding of disability based on a person's statement of symptoms alone.[10]

Policy Interpretation

In this SSR, we explain how we establish a primary headache disorder as an MDI and how we evaluate claims involving primary headache disorders. The following information is in a question and answer format. Question 1 explains what primary headache disorders are. Question 2 explains how the medical community diagnoses primary headache disorders. Questions 3, 4, 5, and 6 provide the ICHD–3 diagnostic criteria for four common types of primary headache disorders.[11] Question 7 explains how we establish a primary headache disorder as an MDI. Questions 8 and 9 address how we evaluate primary headache disorders in the sequential evaluation process.

List of Questions

1. *What are primary headache disorders?*
2. *How does the medical community diagnose a primary headache disorder?*
3. *What are the ICHD–3 diagnostic criteria for migraine with aura?*
4. *What are the ICHD–3 diagnostic criteria for migraine without aura?*
5. *What are the ICHD–3 diagnostic criteria for chronic tension-type headache?*
6. *What are the ICHD–3 diagnostic criteria for cluster headache (a type of trigeminal autonomic cephalalgias)?*
7. *How do we establish a primary headache disorder as an MDI?*
8. *How do we evaluate an MDI of a primary headache disorder under the Listing of Impairments?*

[1] For simplicity, we refer in this SSR only to initial adult claims for disability benefits under titles II and XVI of the Act. The policy interpretations in this SSR, however, also apply to claims of children (that is, people who have not attained age 18) who apply for benefits based on disability under title XVI of the Act, continuing disability reviews of adults and children under sections 223(f) and 1614(a)(4) of the Act, and redeterminations of eligibility for benefits we make in accordance with section 1614(a)(3)(H) of the Act when a child who is receiving title XVI payments based on disability attains age 18.

[2] See World Health Organization. (2016). *Headache disorders.* Retrieved from *http://www.who.int/news-room/fact-sheets/detail/headache-disorders.*

[3] See International Headache Society (IHS). (2018). *The international classification of headache disorders (3rd ed.).* Retrieved from *https://www.ichd-3.org/wp-content/uploads/2018/01/The-International-Classification-of-Headache-Disorders-3rd-Edition-2018.pdf.*

[4] See sections 223(d)(1)(A) and 1614(a)(3)(A) of the Act.

[5] See 20 CFR 404.1520(a)(4)(ii) and (c) and 416.920(a)(4)(ii) and (c).

[6] See sections 223(d)(3) and 1614(a)(3)(D) of the Act, and 20 CFR 404.1521 and 416.921.

[7] Objective medical evidence is defined as signs, laboratory findings, or both. See 20 CFR 404.1502(f).

[8] See 20 CFR 404.1502, 404.1513, 404.1521, 416.902, 416.913, and 416.921.

[9] See 20 CFR 404.1521 and 416.921.

[10] See 20 CFR 404.1529(a) and 416.929(a).

[11] Although this SSR only provides information about four common types of primary headache disorders, diagnostic criteria for other types of primary headache disorders can be found in the ICHD–3.

9. *How do we consider an MDI of a primary headache disorder in assessing a person's residual functional capacity?*

1. *What are primary headache disorders?*

Headaches are complex neurological disorders involving recurring pain in the head, scalp, or neck. Headaches can occur in adults and children. The National Institute of Neurological Disorders and Stroke (NINDS), the American Academy of Neurology, and other professional organizations classify headaches as either *primary* or *secondary* headaches. Primary headaches occur independently and are not caused by another medical condition. Secondary headaches are symptoms of another medical condition such as fever, infection, high blood pressure, stroke, or tumors.

Primary headache disorders are a collection of chronic headache illnesses characterized by repeated exacerbations of overactivity or dysfunction of pain-sensitive structures in the head. Examples of common primary headaches include *migraines, tension-type headaches,* and *trigeminal autonomic cephalalgias.* They are typically severe enough to require prescribed medication and sometimes warrant emergency department visits.[12] The purpose of the emergency department care is to determine the correct headache diagnosis, exclude secondary causes of the headache (such as infection, mass-lesion, or hemorrhage), initiate acute therapy in appropriate cases, and provide referral to an appropriate healthcare provider for further care and management of the headaches.[13]

Migraines are vascular headaches involving throbbing and pulsating pain caused by the activation of nerve fibers that reside within the wall of brain blood vessels traveling within the meninges (the three membranes covering the brain and spinal cord). There are two major types of migraine: *Migraine with aura* and *migraine without aura.* Migraine with aura is accompanied by visual, sensory, or other central nervous system symptoms. Migraine without aura is accompanied by nausea, vomiting, or photophobia (light sensitivity) and phonophobia (sound sensitivity). Migraine without aura is the most common form of migraine.

Tension-type headaches are characterized by pain or discomfort in the head, scalp, face, jaw, or neck, and are usually associated with muscle tightness in these areas. There are two types of tension-type headaches: Episodic and chronic. Episodic tension-type headaches are further divided into infrequent episodic tension-type headaches, which typically do not require medical management, and frequent episodic tension-type headaches, which may require medical management. Chronic tension-type headaches generally evolve from episodic tension-type headaches. Chronic tension-type headaches and frequent episodic tension-type headaches may be disabling depending on the frequency of the headache attacks, type of accompanying symptoms, response to treatment, and functional limitations.

Trigeminal autonomic cephalalgias are characterized by unilateral (one-sided) pain. There are three types: Cluster headache, paroxysmal hemicrania (rare), and short-lasting unilateral neuralgiform headache attacks with conjunctival injection and tearing (SUNCT; very rare). *Cluster headaches* are characterized by sudden headaches that occur in ''clusters,'' are usually less frequent and shorter than migraine headaches, and may be mistaken for allergies because they often occur seasonally.

2. *How does the medical community diagnose a primary headache disorder?*

In accordance with the ICHD–3 guidelines, the World Health Organization (WHO) protocols, and the NINDS definition of headache disorders, physicians diagnose a primary headache disorder only after excluding alternative medical and psychiatric causes of a person's symptoms.[14] Physicians diagnose a primary headache disorder after reviewing a person's full medical and headache history and conducting a physical and neurological examination.[15] It is helpful to a physician when a person keeps a ''headache journal'' to document when the headaches occur, how long they last, what symptoms are associated with the headaches, and other co-occurring environmental factors.

To rule out other medical conditions that may result in the same or similar symptoms, a physician may also conduct laboratory tests or imaging scans.[16] For example, physicians may use magnetic resonance imaging (MRI) to rule out other possible causes of headaches—such as a tumor—meaning that an unremarkable MRI is consistent with a primary headache disorder diagnosis. Other tests used to exclude causes of headache symptoms include computed tomography (CT) scan of the head, CT angiography (CTA), blood chemistry and urinalysis, sinus x-ray, electroencephalogram (EEG), eye examination, and lumbar puncture. A scan may describe an incidental abnormal finding, which does not preclude the diagnosis of a primary headache disorder. While imaging may be useful in ruling out other possible causes of headache symptoms, it is not required for a primary headache disorder diagnosis.

3. *What are the ICHD–3 diagnostic criteria for migraine with aura?*

The ICHD–3 diagnostic criteria for migraine with aura are headaches not better accounted for by another ICHD–3 diagnosis *and* at least two headache attacks meeting the following criteria:

- One or more of the following fully reversible aura symptoms:
  - Visual,
  - Sensory,
  - Speech or language,
  - Motor,
  - Brainstem, or
  - Retinal; and
- At least three of the following six characteristics:
  - At least one aura symptom spreads gradually over at least 5 minutes;
  - Two or more aura symptoms occur in succession;
  - Each individual aura symptom lasts 5 to 60 minutes;
  - At least one aura symptom is unilateral (aphasia is always regarded as a unilateral symptom; dysarthria may or may not be);
  - At least one aura symptom is positive (scintillations and pins and needles are positive symptoms of aura); or
  - The aura is accompanied or followed within 60 minutes by headache.

4. *What are the ICHD–3 diagnostic criteria for migraine without aura?*

The ICHD–3 diagnostic criteria for migraine without aura are headaches not better accounted for by another ICHD–3 diagnosis *and* at least five headache attacks satisfying the following criteria:

[12] Clinicians may use terms such as ''severe'' or ''moderate'' to characterize a person's medical condition or symptoms and these terms may be seen in medical evidence. These terms will not always have the same meaning in the clinical setting as they do in our program.

[13] Lange, S.E. (2011). Primary headache disorders in the emergency department. *Advanced Emergency Nursing Journal, 33*(3). doi:10.1097/TME.0b013e3182261105.

[14] ICHD–3 provides classification of headache disorders and diagnostic criteria.

[15] Ebell, M.H. (2006). Diagnosis of migraine headache. *American Family Physician, 74*(12).

[16] Friedman, B.W. & Grosberg, B.M. (2009). Diagnosis and management of the primary headache disorders in the emergency department setting. *Emergency Medicine Clinics of North America, 27*(1). doi:10.1016/j.emc.2008.09.005.

- Lasting 4 to 72 hours (untreated or unsuccessfully treated);[17] [18] and
- At least two of the following four characteristics:
  - Unilateral location;
  - Pulsating quality;
  - Moderate or severe pain intensity; or
  - Aggravation by or causing avoidance of routine physical activity (for example, walking or climbing stairs); and
- During headache, at least one of the following:
  - Nausea or vomiting, or
  - Photophobia and phonophobia.

5. *What are the ICHD–3 diagnostic criteria for chronic tension-type headache?*

The ICHD–3 diagnostic criteria for chronic tension-type headache are headaches not better accounted for by another ICHD–3 diagnosis, occurring on at least 15 days per month on average for more than 3 months, *and* satisfying the following criteria:

- Lasting hours to days, or unremitting; and
- At least two of the following four characteristics:
  - Bilateral location;
  - Pressing or tightening (non-pulsating) quality;
  - Mild or moderate intensity; or
  - Not aggravated by routine physical activity (such as walking or climbing stairs); and
- No more than one of photophobia, phonophobia, or mild nausea; and
- Neither moderate nor severe[19] nausea nor vomiting.

6. *What are the ICHD–3 diagnostic criteria for cluster headache (a type of trigeminal autonomic cephalalgias)?*

The ICHD–3 diagnostic criteria for cluster headache are headaches not better accounted for by another ICHD–3 diagnosis *and* at least five headache attacks satisfying the following criteria:

- Severe or very severe[20] unilateral orbital, supraorbital, or temporal pain lasting 15 to 180 minutes (when untreated);
- One or both of the following:
  - A sense of restlessness or agitation *or*
  - At least one of the following symptoms or signs occurring on the same side of the body as the headache:
    - Conjunctival injection (red eye);
    - Lacrimation (secretion of tears);
    - Nasal congestion or rhinorrhea (runny nose);
    - Eyelid edema (puffy eyelid);
    - Forehead and facial sweating;
    - Miosis (excessive constriction of the pupil); or
    - Ptosis (drooping of the upper eyelid); and
- Occurring with a frequency between one every other day and eight per day.

7. *How do we establish a primary headache disorder as an MDI?*

We establish a primary headache disorder as an MDI by considering *objective medical evidence* (signs, laboratory findings, or both) from an AMS.[21] We may establish only a primary headache disorder as an MDI. We will not establish secondary headaches (for example, headache attributed to trauma or injury to the head or neck or to infection) as MDIs because secondary headaches are symptoms of another underlying medical condition. We evaluate the underlying medical condition as the MDI. Generally, successful treatment of the underlying condition will alleviate the secondary headaches.

We will not establish the existence of an MDI based only on a diagnosis or a statement of symptoms; however, we will consider the following combination of findings reported by an AMS when we establish a primary headache disorder as an MDI:

- A primary headache disorder *diagnosis* from an AMS. Other disorders have similar symptoms, signs, and laboratory findings. A diagnosis of one of the primary headache disorders by an AMS identifies the specific condition that is causing the person's symptoms. The evidence must document that the AMS who made the diagnosis reviewed the person's medical history, conducted a physical examination, and made the diagnosis of primary headache disorder only after excluding alternative medical and psychiatric causes of the person's symptoms. In addition, the treatment notes must be consistent with the diagnosis of a primary headache disorder.[22]
- An *observation of a typical headache event,* and a detailed description of the event including all associated phenomena, by an AMS. During a physical examination, an AMS is often able to observe and document signs that co-occur prior to, during, and following the headache event. Examples of co-occurring observable signs include occasional tremors, problems concentrating or remembering, neck stiffness, dizziness, gait instability,skin flushing, nasal congestion or rhinorrhea (runny nose), puffy eyelid, forehead or facial sweating, pallor, constriction of the pupil, drooping of the upper eyelid, red eye, secretion of tears, and the need to be in a quiet or dark room during the examination. In the absence of direct observation of a typical headache event by an AMS, we may consider a third party observation of a typical headache event, and any co-occurring observable signs, when the third party's description of the event is documented by an AMS and consistent with the evidence in the case file.
- Remarkable or unremarkable findings on *laboratory tests.* We will make every reasonable effort to obtain the results of laboratory tests. We will not routinely purchase tests related to a person's headaches or allegations of headaches. We will not purchase imaging or other diagnostic or laboratory tests that are complex, may involve significant risk, or are invasive.
- *Response to treatment.* Medications and other medical interventions are generally tailored to a person's unique symptoms, predicted response, and risk of side effects. Examples of medications used to treat primary headache disorders include, but are not limited to, botulinum neurotoxin (Botox®), anticonvulsants, and antidepressants. We will consider whether the person's headache symptoms have improved, worsened, or remained stable despite treatment and consider medical opinions related to the person's physical strength and functional abilities. When evidence in the file from an AMS documents ongoing headaches that persist despite treatment, such findings may constitute medical signs that help to establish the presence of an MDI.[23]

8. *How do we evaluate an MDI of a primary headache disorder under the Listing of Impairments?*

Primary headache disorder is not a listed impairment in the Listing of Impairments (listings);[24] however, we may find that a primary headache disorder, alone or in combination with

[17] When the person falls asleep during a migraine attack and wakes up without it, duration of the attack is calculated until the time of awakening.

[18] In children (persons under age 18), attacks may last 2–72 hours.

[19] See note 12 above.

[20] Id.

[21] See 20 CFR 404.1502(a) and 416.902(a).

[22] As explained in question 2, a person's ''headache journal'' may aid a physician in diagnosing a headache disorder after reviewing a person's full medical and headache history. We do not require evidence from a person's ''headache journal'' in order to establish an MDI of a headache disorder. Our current rules require objective medical evidence, consisting of signs, laboratory finding, or both, from an AMS to establish an MDI. We will, however, consider evidence from a person's ''headache journal'' when it is part of the record, either as part of the treatment notes or as separate evidence, along with all evidence in the record.

[23] See 20 CFR 404.1502(g) and 416.902(l).

[24] See 20 CFR part 404, subpart P, Appendix 1, and 20 CFR 404.1525 and 416.925.

another impairment(s), medically equals a listing.[25]

Epilepsy (listing 11.02) is the most closely analogous listed impairment for an MDI of a primary headache disorder. While uncommon, a person with a primary headache disorder may exhibit equivalent signs and limitations to those detailed in listing 11.02 (paragraph B or D for dyscognitive seizures), and we may find that his or her MDI(s) medically equals the listing.

Paragraph B of listing 11.02 requires dyscognitive seizures occurring at least once a week for at least 3 consecutive months despite adherence to prescribed treatment. To evaluate whether a primary headache disorder is equal in severity and duration to the criteria in 11.02B, we consider: A detailed description from an AMS of a typical headache event, including all associated phenomena (for example, premonitory symptoms, aura, duration, intensity, and accompanying symptoms); the frequency of headache events; adherence to prescribed treatment; side effects of treatment (for example, many medications used for treating a primary headache disorder can produce drowsiness, confusion, or inattention); and limitations in functioning that may be associated with the primary headache disorder or effects of its treatment, such as interference with activity during the day (for example, the need for a darkened and quiet room, having to lie down without moving, a sleep disturbance that affects daytime activities, or other related needs and limitations).

Paragraph D of listing 11.02 requires dyscognitive seizures occurring at least once every 2 weeks for at least 3 consecutive months despite adherence to prescribed treatment, and marked limitation in one area of functioning. To evaluate whether a primary headache disorder is equal in severity and duration to the criteria in 11.02D, we consider the same factors we consider for 11.02B and we also consider whether the overall effects of the primary headache disorder on functioning results in marked limitation in: Physical functioning; understanding, remembering, or applying information; interacting with others; concentrating, persisting, or maintaining pace; or adapting or managing oneself.

9. *How do we consider an MDI of a primary headache disorder in assessing a person's residual functional capacity?*

If a person's primary headache disorder, alone or in combination with another impairment(s), does not medically equal a listing at step three of the sequential evaluation process, we assess the person's residual functional capacity (RFC). We must consider and discuss the limiting effects of all impairments and any related symptoms when assessing a person's RFC.[26] The RFC is the most a person can do despite his or her limitation(s).

We consider the extent to which the person's impairment-related symptoms are consistent with the evidence in the record. For example, symptoms of a primary headache disorder, such as photophobia, may cause a person to have difficulty sustaining attention and concentration. Consistency and supportability between reported symptoms and objective medical evidence is key in assessing the RFC.

This SSR is applicable on August 26, 2019.[27]

Cross References: SSR 83–12: Title II and XVI: Capability To Do Other Work—The Medical-Vocational Rules as a Framework for Evaluating Exertional Limitations Within a Range of Work or Between Ranges of Work; SSR 83–14: Titles II and XVI: Capability To Do Other Work—The Medical-Vocational Rules as a Framework for Evaluating a Combination of Exertional and Nonexertional Impairments; SSR 85–15: Titles II and XVI: Capability To Do Other Work—The Medical-Vocational Rules as a Framework for Evaluating Solely Nonexertional Impairments; SSR 86–8: Titles II and XVI: The Sequential Evaluation Process; SSR 96–8p: Titles II and XVI: Assessing Residual Functional Capacity in Initial Claims; SSR 96–9p: Titles II and XVI: Determining Capability to Do Other Work—Implications of a Residual Functional Capacity for Less Than a Full Range of Sedentary Work; SSR 11–2p: Titles II and XVI: Documenting and Evaluating Disability in Young Adults; SSR 16–3p: Titles II and XVI: Evaluation of Symptoms in Disability Claims; SSR 17–2p: Titles II and XVI: Evidence Needed by Adjudicators at the Hearings and Appeals Council Levels of the Administrative Review Process to Make Findings about Medical Equivalence; and Program Operations Manual System (POMS) DI 22001.001, DI 22505.001, DI 22505.003, DI 24501.020, DI 24501.021, DI 24503.005, DI 24503.025, DI 24503.030, DI 24503.035, DI 24505.001, DI 24510.005, DI 24510.057, DI 24515.012, DI 24515.062, DI 24515.063, DI 25025.001, DI 25505.025, and DI 25505.030.

[25] See 20 CFR 404.1526 and 416.926 and SSR 17–2p: Titles II and XVI: Evidence Needed by Adjudicators at the Hearings and Appeals Council Levels of the Administrative Review Process to Make Findings about Medical Equivalence, 82 FR 15263 (2017) (also available at: *https://www.ba.ssa.gov/OP_Home/rulings/di/01/SSR2017-02-di-01.html*).

[26] See 20 CFR 404.1545 and 416.945.

[27] We will use this SSR beginning on its applicable date. We will apply this SSR to new applications filed on or after the applicable date of the SSR and to claims that are pending on and after the applicable date. This means that we will use this SSR on and after its applicable date in any case in which we make a determination or decision. We expect that Federal courts will review our final decisions using the rules that were in effect at the time we issued the decisions. If a court reverses our final decision and remands a case for further administrative proceedings after the applicable date of this SSR, we will apply this SSR to the entire period at issue in the decision we make after the court's remand.

[FR Doc. 2019–18310 Filed 8–23–19; 8:45 am]

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DEPARTMENT OF STATE

[Public Notice: 10855]

Bureau of International Security and Nonproliferation; Imposition of Additional Sanctions on Russia Under the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991

SUMMARY: On August 6, 2018, a determination was made that the Russian government used chemical weapons in violation of international law or lethal chemical weapons against its own nationals. Notice of this determination was published on August 27, 2018 in the **Federal Register**, under Public Notice 10519, which resulted in sanctions against Russia. Section 307(B) of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (CBW Act), requires a decision within three months of August 6, 2018 regarding whether Russia has met certain conditions described in the law. Additional sanctions on Russia are required if these conditions are not met. The Secretary of State decided on November 2, 2018 that Russia had not met the CBW Act's conditions and decided to impose additional sanctions on Russia on March 29, 2019.

DATES: This determination is effective on August 26, 2019.

FOR FURTHER INFORMATION CONTACT: Pamela K. Durham, Office of Missile, Biological, and Chemical Nonproliferation, Bureau of International Security and Nonproliferation, Department of State, Telephone (202) 647–4930.

SUPPLEMENTARY INFORMATION: Pursuant to Section 307(b) of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, as amended (22 U.S.C. Section 5604(a) and Section 5605(a)), on March 29, 2019 the Secretary of State decided to impose

additional sanctions on Russia. As a result, the following additional sanctions are hereby imposed:

1. *Multilateral Development Bank Assistance:* The United States Government shall oppose, in accordance with Section 701 of the International Financial Institutions Act (22 U.S.C. 262d), the extension of any loan or financial or technical assistance to Russia by international financial institutions.

2. *Bank Loans:* The United States Government shall prohibit any United States bank from making any loan or providing any credit to the government of Russia, except for loans or credits for the purpose of purchasing food or other agricultural commodities or products.

The Secretary of State has determined that it is essential to the national security interests of the United States to waive the application of this sanction in all respects, except that the authority of Executive Order 13883 shall be used by the Department of Treasury to prohibit United States banks from (1) participating in the primary market for non-ruble denominated bonds issued by the Russian sovereign issued after the enactment of these sanctions; and (2) providing non-ruble denominated loans to the Russian sovereign after the enactment of these sanctions, in both cases as further described in a **Federal Register** Notice issued by the Department of Treasury and implemented through the Directive and guidance published on the Office of Foreign Assets Control's website (*http://www.treasury.gov/resource-center/sanctions/Programs/Documents/20190803_cbw_directive.pdf*).

3. *Further Export Restrictions:* The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit exports to Russia of all other goods and technology (excluding food and other agricultural commodities and products). The Secretary of State has determined that it is essential to the national security interests of the United States to waive the application of this sanction with respect to the following:

CBW: Exports and reexports of goods or technology controlled for reason CB (Chemical and Biological Weapons) pursuant to new licenses for Russian state-owned or state-funded enterprises provided that such licenses will be issued on a case-by-case basis, subject to a ''presumption of denial'' policy.

Other Reasons for Control: Exports and reexports of goods or technology controlled for AT (Anti-Terrorism), CC (Crime Control), FC (Firearms Convention), MT (Missile Technology), NP (Nuclear Nonproliferation), and RS (Regional Stability), pursuant to new licenses, provided that such licenses will be issued on a case-by-case basis, consistent with export licensing policy for Russia prior to enactment of these sanctions. For information on exports or reexports of goods or technology controlled for NS (National Security), see the notices at 83 FR 43723 and 83 FR 47390.

License Exceptions: Exports and reexports of goods or technology eligible under License Exceptions GOV, ENC, RPL, BAG, TMP, TSU, APR, CIV, and AVS.

Safety of Flight: Exports and reexports of goods or technology pursuant to new licenses necessary for the safety of flight of civil fixed-wing passenger aviation, provided that such licenses shall be issued on a case-by-case basis, consistent with export licensing policy for Russia prior to enactment of these sanctions.

Deemed Exports/Reexports: Exports and re-exports of goods or technology pursuant to new licenses for deemed exports and reexports to Russian nationals, provided that such licenses shall be issued on a case-by-case basis, consistent with export licensing policy for Russia prior to enactment of these sanctions.

Wholly-Owned U.S. and Other Foreign Subsidiaries: Exports and reexports of goods or technology pursuant to new licenses for exports and reexports to wholly-owned U.S. and other foreign subsidiaries in Russia, provided that such licenses shall be issued on a case-by-case basis, consistent with export licensing policy for Russia prior to enactment of these sanctions.

Space Flight: Exports and reexports of goods or technology pursuant to new licenses in support of government space cooperation and commercial space launches, provided that such licenses shall be issued on a case-by-case basis, consistent with export licensing policy for Russia prior to enactment of these sanctions.

Commercial End-Users: Exports and reexports of goods or technology pursuant to new licenses for commercial end-users civil end-uses in Russia, provided that such licenses shall be issued on a case-by-case basis, consistent with export licensing policy for Russia prior to enactment of these sanctions.

These measures shall be implemented by the responsible departments and agencies of the United States Government and will remain in place for at least one year and until further notice.

Choo S. Kang,

Assistant Secretary of State, Acting, International Security and Nonproliferation, U.S. Department of State.

[FR Doc. 2019–18050 Filed 8–23–19; 8:45 am]

BILLING CODE 4710–27–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Intent To Release Airport Property

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on request to release airport property for non-aeronautical use; Fairbanks International Airport (FAI), Fairbanks, Alaska.

SUMMARY: The FAA proposes to rule and invites public comment on the release of the aeronautical use only provision for land at the Fairbanks International Airport, Fairbanks, Alaska.

DATES: Comments must be received on or before September 25, 2019.

ADDRESSES: Documents are available for review by appointment at the FAA Anchorage Airports Regional Office, Molly Lamrouex, Compliance Manager, 222 W 7th Avenue, Anchorage, AK. Telephone: (907) 271–5439 and the Fairbanks International Airport, 6450 Airport Way, Suite 1, Fairbanks, AK 99709. Telephone: (907) 474–2549.

Written comments on the Sponsor's request must be delivered or mailed to: Molly Lamrouex, Compliance Manager, Federal Aviation Administration, Airports Anchorage Regional Office, 222 W 7th Avenue, Anchorage AK 99513, Telephone Number: (907) 271–5439.

FOR FURTHER INFORMATION CONTACT: Molly Lamrouex, Compliance Manager, Federal Aviation Administration, Alaskan Region Airports District Office, 222 W 7th Avenue, Anchorage, AK 99513. Telephone Number: (907) 271–5439/FAX Number: (907) 271–2851.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release the aeronautical use only grant provision for three parcels on the west side of FAI, under the provisions of 49 U.S.C. 47107(h)(2). The Alaska Department of Transportation and Public Facilities has requested from the FAA that West lease lot block 10 (lots 8/9); West lease lot Block 3 (lot 12) and West lease lot Block 3 (lot 13) be released for non-aeronautical use. These lease lots have no direct access to the

airfield. The FAA has determined that the release of the property will not likely adversely impact future aviation needs at the airport and will generate revenue for the airport via assessment of lease rates at the non-aeronautical rate. The FAA may approve the request, in whole or in part, no sooner than 30 days after the publication of this notice.

Issued in Anchorage, Alaska, on August 21, 2019.

Matthew K. Stearns,

Acting Director, Alaskan Airports Regional Office, FAA, Alaskan Region.

[FR Doc. 2019–18328 Filed 8–23–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket ID OCC–2019–0016]

Mutual Savings Association Advisory Committee

AGENCY: Department of the Treasury, Office of the Comptroller of the Currency (OCC).

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The OCC announces a meeting of the Mutual Savings Association Advisory Committee (MSAAC).

DATES: A public meeting of the MSAAC will be held on Tuesday, September 17, 2019, beginning at 8:30 a.m. Eastern Daylight Time (EDT).

ADDRESSES: The OCC will hold the September 17, 2019 meeting of the MSAAC at the OCC's offices at 400 7th Street SW, Washington, DC 20219.

FOR FURTHER INFORMATION CONTACT: Michael R. Brickman, Deputy Comptroller for Thrift Supervision, (202) 649–5420, Office of the Comptroller of the Currency, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: By this notice, the OCC is announcing that the MSAAC will convene a meeting on Tuesday, September 17, 2019, at the OCC's offices at 400 7th Street SW, Washington, DC 20219. The meeting is open to the public and will begin at 8:30 a.m. EDT. The purpose of the meeting is for the MSAAC to advise the OCC on regulatory or other changes the OCC may make to ensure the health and viability of mutual savings associations. The agenda includes a discussion of current topics of interest to the industry.

Members of the public may submit written statements to the MSAAC. The OCC must receive written statements no later than 5:00 p.m. EDT on Tuesday, September 10, 2019. Members of the public may submit written statements to *MSAAC@occ.treas.gov* or by mailing them to Michael R. Brickman, Designated Federal Officer, Mutual Savings Association Advisory Committee, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219.

Members of the public who plan to attend the meeting should contact the OCC by 5:00 p.m. EDT on Tuesday, September 10, 2019, to inform the OCC of their desire to attend the meeting and to provide information that will be required to facilitate entry into the meeting. Members of the public may contact the OCC via email at *MSAAC@OCC.treas.gov* or by telephone at (202) 649–5420. Members of the public who are hearing impaired should call (202) 649–5597 (TTY) by 5:00 p.m. EDT on Tuesday, September 10, 2019, to arrange auxiliary aids such as sign language interpretation for this meeting.

Attendees should provide their full name, email address, and organization, if any. For security reasons, attendees will be subject to security screening procedures and must present a valid government-issued identification to enter the building.

Dated: August 19, 2019.

Joseph M. Otting,

Comptroller of the Currency.

[FR Doc. 2019–18263 Filed 8–23–19; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket ID OCC–2019–0017]

Minority Depository Institutions Advisory Committee

AGENCY: Department of the Treasury, Office of the Comptroller of the Currency.

ACTION: Notice.

SUMMARY: The Office of the Comptroller of the Currency (OCC) announces a meeting of the Minority Depository Institutions Advisory Committee (MDIAC).

DATES: The OCC MDIAC will hold a public meeting on Thursday, September 19, 2019, beginning at 8:30 a.m. Eastern Daylight Time (EDT).

ADDRESSES: The OCC will hold the September 19, 2019 meeting of the MDIAC at the Office of the Comptroller of the Currency, 400 Seventh Street SW, Washington, DC 20219.

FOR FURTHER INFORMATION CONTACT: Beverly Cole, Designated Federal Officer and Deputy Comptroller for Compliance Supervision, (202) 649–6862, Office of the Comptroller of the Currency, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: By this notice, the OCC is announcing that the MDIAC will convene a meeting at 8:30 a.m. EDT on Thursday, September 19, 2019, at the Office of the Comptroller of the Currency, 400 Seventh Street SW, Washington, DC 20219. Agenda items will include current topics of interest to the industry. The purpose of the meeting is for the MDIAC to advise the OCC on steps the agency may be able to take to ensure the continued health and viability of minority depository institutions and other issues of concern to minority depository institutions. Members of the public may submit written statements to the MDIAC by any one of the following methods:

- *Email to: MDIAC@OCC.treas.gov.*
- *Mail to:* Beverly Cole, Designated Federal Officer, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219.

The OCC must receive written statements no later than 5:00 p.m. EDT on Thursday, September 12, 2019. Members of the public who plan to attend the meeting should contact the OCC by 5:00 p.m. EDT on Thursday, September 12, 2019, to inform the OCC of their desire to attend the meeting and to provide information that will be required to facilitate entry into the meeting. Members of the public may contact the OCC via email at *MDIAC@OCC.treas.gov* or by telephone at (202) 649–6862. Attendees should provide their full name, email address, and organization, if any. For security reasons, attendees will be subject to security screening procedures and must present a valid government-issued identification to enter the building. Members of the public who are hearing impaired should call (202) 649–5597 (TTY) no later than 5:00 p.m. EDT on Thursday, September 12, 2019, to arrange auxiliary aids such as sign language interpretation for this meeting.

Dated: August 19, 2019.

Joseph M. Otting,

Comptroller of the Currency.

[FR Doc. 2019–18262 Filed 8–23–19; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF VETERANS AFFAIRS

Annual Pay Ranges for Physicians, Dentists, and Podiatrists of the Veterans Health Administration (VHA)

AGENCY: Department of Veterans Affairs.

ACTION: Notice; correction.

SUMMARY: The Department of Veterans Affairs (VA) is correcting a Notice that published in the **Federal Register** on August 20, 2019 which provides information on the annual pay range, which is the sum of the base pay rate and market pay for Veterans Health Administration (VHA) physicians, dentists, and podiatrists as prescribed by the Secretary for Department-wide applicability.

DATES: Annual pay ranges are applicable October 27, 2019.

FOR FURTHER INFORMATION CONTACT: Farine Cohen, Program Analyst, Policy and Programs, VHA Workforce Management & Consulting Office (10A2A), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–7179. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On August 20, 2019, at 84 FR 43261, VA published a Notice which provides information on the annual pay range, which is the sum of the base pay rate and market pay for Veterans Health Administration (VHA) physicians, dentists, and podiatrists as prescribed by the Secretary for Department-wide applicability.

Correction

In FR Doc. 2019–17901, appearing on page 43262 in the **Federal Register** of 84 FR 43262, the following correction is made:

1. On page 43262, in the Pay Table 6—Covered Executive Assignments, Network Chief Officer should be deleted.

Dated: August 21, 2019.

Jeffrey M. Martin,

Assistant Director, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2019–18280 Filed 8–23–19; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 84 Monday,
No. 165 August 26, 2019

Part II

The President

Memorandum of August 21, 2019—Discharging the Federal Student Loan Debt of Totally and Permanently Disabled Veterans

Federal Register
Vol. 84, No. 165
Monday, August 26, 2019

Presidential Documents

Title 3—

The President

Memorandum of August 21, 2019

Discharging the Federal Student Loan Debt of Totally and Permanently Disabled Veterans

Memorandum for the Secretary of Education [and] the Secretary of Veterans Affairs

Since our Founding, the United States has been blessed with men and women willing to serve in defense of our Nation and our ideals. Many of those answering the call to serve make the ultimate sacrifice for their country, and many others carry physical and emotional scars for the rest of their lives.

The Higher Education Act of 1965, as amended by the Higher Education Opportunity Act in 2008 and other acts (Higher Education Act), honors veterans who are totally and permanently disabled as a result of their service to the Nation by providing for the discharge of their Federal student loan debt. Borrowers who have been determined by the Secretary of Veterans Affairs to be unemployable due to a service-connected condition and who provide documentation of that determination to the Secretary of Education are entitled to the discharge of such debt.

For the last decade, veterans seeking loan discharges have been required to submit an application to the Secretary of Education with proof of their disabilities obtained from the Department of Veterans Affairs. The process has been overly complicated and difficult, and prevented too many of our veterans from receiving the relief for which they are eligible. This has inflicted significant hardship and serious harm on these veterans and has frustrated the intent of the Congress that their Federal student loan debt be discharged.

Only half of the approximately 50,000 totally and permanently disabled veterans who currently qualify for the discharge of their Federal student loan debt have availed themselves of the benefits provided to them by the Higher Education Act. This has created a serious and critical problem for disabled veterans, who must deal with the day-to-day consequences of their service-connected injuries, and for our military, as readiness and recruitment suffer when we do not take care of our veterans. There is a pressing need to quickly and effectively resolve this problem. Therefore, my Administration will take prompt action to ensure that all totally and permanently disabled veterans are able to obtain, with minimal burden, the Federal student loan debt discharges to which they are legally entitled.

Accordingly, by the authority vested in me as President by the Constitution and the laws of the United States of America, and to express the gratitude of our Nation for the service of our totally and permanently disabled veterans, I hereby direct the following:

Section 1. *Policy.* It shall be the policy of the Federal Government to facilitate—in a manner that is quick, efficient, and minimally burdensome—the discharge of Federal student loan debt for totally and permanently disabled veterans.

Sec. 2. *Directive to the Secretaries of Education and Veterans Affairs.* (a) The Secretary of Education is hereby directed to develop as soon as practicable a process, consistent with applicable law, to facilitate the swift and effective discharge of the Federal student loan debt of totally and permanently

disabled veterans pursuant to section 437 of the Higher Education Act, 20 U.S.C. 1087; section 455 of the Higher Education Act, 20 U.S.C. 1087e; and section 464 of the Higher Education Act, 20 U.S.C. 1087dd. To the maximum extent feasible and consistent with applicable law, the process developed by the Secretary of Education should account for and make use of disability determinations made available to the Secretary of Education by the Department of Veterans Affairs.

(b) The Secretaries of Education and Veterans Affairs (Secretaries) shall take appropriate action to implement the policy set forth in section 1 of this memorandum as expeditiously as possible. To that end, the Secretaries shall consider all pathways for the Department of Veterans Affairs to share disability determinations with the Department of Education, so that veterans may be relieved of the burdensome administrative impediments to Federal student loan debt discharge.

Sec. 3. *Definitions.* As used in this memorandum:

(a) the term ''Federal student loan debt'' means liability to repay Federal Family Education Loan (FFEL) Program loans, William D. Ford Federal Direct Loan (Direct Loan) Program loans, and Federal Perkins Loans.

(b) the term ''discharge'' means discharge of FFEL Program loans and Direct Loan Program loans and cancellation of Federal Perkins Loans.

Sec. 4. *General Provisions.* (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

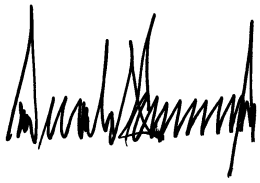
(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum 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.

(d) The Secretary of Education is hereby authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, August 21, 2019

[FR Doc. 2019–18520
Filed 8–23–19; 11:15 am]
Billing code 4000–01–P

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H.R. 540/P.L. 116–42
To designate the facility of the United States Postal Service located at 770 Ayrault Road in Fairport, New York, as the ''Louise and Bob Slaughter Post Office''. (Aug. 21, 2019; 133 Stat. 1065)

H.R. 828/P.L. 116–43
To designate the facility of the United States Postal Service located at 25 Route 111 in Smithtown, New York, as the ''Congressman Bill Carney Post Office''. (Aug. 21, 2019; 133 Stat. 1066)

H.R. 829/P.L. 116–44
To designate the facility of the United States Postal Service located at 1450 Montauk Highway in Mastic, New York, as the ''Army Specialist Thomas J. Wilwerth Post Office Building''. (Aug. 21, 2019; 133 Stat. 1067)

H.R. 1198/P.L. 116–45
To designate the facility of the United States Postal Service located at 404 South Boulder Highway in Henderson, Nevada, as the ''Henderson Veterans Memorial Post Office Building''. (Aug. 21, 2019; 133 Stat. 1068)

H.R. 1449/P.L. 116–46
To designate the facility of the United States Postal Service located at 3033 203rd Street in Olympia Fields, Illinois, as the ''Captain Robert L. Martin Post Office''. (Aug. 21, 2019; 133 Stat. 1069)

H.R. 3305/P.L. 116–47
To designate the facility of the United States Postal Service located at 2509 George Mason Drive in Virginia Beach, Virginia, as the ''Ryan Keith Cox Post Office Building''. (Aug. 21, 2019; 133 Stat. 1070)

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