Federal Register

6–8–09 Monday
Vol. 74 No. 108 June 8, 2009

Pages 27071–27242

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.federalregister.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** *www.gpoaccess.gov/nara,* available through GPO Access, is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

For more information about GPO Access, contact the GPO Access User Support Team, call toll free 1-888-293-6498; DC area 202-512-1530; fax at 202-512-1262; or via e-mail at *gpoaccess@gpo.gov.* The Support Team is available between 7:00 a.m. and 9:00 p.m. Eastern Time, Monday–Friday, except official holidays.

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Printing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 74 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**

General online information **202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	**202–741–6005**
Assistance with Federal agency subscriptions	**202–741–6005**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, June 9, 2009
9:00 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

Printed on recycled paper.

Contents

Federal Register

Vol. 74, No. 108

Monday, June 8, 2009

Agriculture Department
See Animal and Plant Health Inspection Service
See Forest Service

Animal and Plant Health Inspection Service
RULES
Quarantine and Regulations;
South American Cactus Moth, 27071–27076

Army Department
NOTICES
Environmental Impact Statement; Availability, etc.:
Military Training Activities at Makua Military Research Reservation (MMR) Hawaii, 27122–27123

Centers for Disease Control and Prevention
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 27143–27145
Meetings:
National Center for Injury Prevention and Control Initial Review Group, 27156

Commerce Department
See International Trade Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 27088–27089

Defense Department
See Army Department
See Navy Department
NOTICES
Privacy Act; System of Records, 27114–27116
Privacy Act; Systems of Records, 27116–27122

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 27127–27128

Energy Department
See Federal Energy Regulatory Commission
See Southwestern Power Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 27128

Environmental Protection Agency
PROPOSED RULES
Revisions to the California State Implementation Plan:
San Joaquin Valley Unified Air Pollution Control District, 27084–27085
Transportation Conformity Rule $PM_{2.5}$ and PM_{10} Amendments, 27085–27087
NOTICES
Cross-Media Electronic Reporting Rule State Authorized Program Revision Approvals:
Utah, 27141

Federal Aviation Administration
RULES
Amendment of Class E Airspace:
Mount Sterling, IL, 27078–27079
Amendment of Class E Airspace:
Cleveland, OH, 27077–27078
Waverly, OH, 27076–27077
Calculation of Noise Levels Published in Advisory Circular 36–3, 27076
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 27233–27234
Noise Exposure Map:
San Antonio International Airport, San Antonio, TX, 27234

Federal Deposit Insurance Corporation
NOTICES
Establishment of the FDIC Advisory Committee on Community Banking, 27141–27142

Federal Energy Regulatory Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 27128–27129
Applications:
City of Angoon, 27133–27134
Applications:
City of Nashua, Iowa, 27130–27131
Dominion Transmission, Inc., 27132–27133
Klamath Irrigation District, 27133
South Carolina Electric & Gas Co., 27129–27130
Transcontinental Gas Pipe Line Co., LLC, 27131–27132
Combined Notice of Filings, 27134–27135
Environmental Assessment; Availability:
Pacific Gas & Electric Co., 27137
Environmental Assessment; Intent:
Transcontinental Gas Pipe Line Co., LLC, 27138–27139
Initial Market-Based Rate Filing:
Palmco Power PA, LLC, 27139
Initial Market-Based Rate Filing:
Lost Creek Wind, LLC, 27140
Market-Based Rate Filings:
Palmco Power NJ, LLC, 27140
Staff Attendances:
California Independent System Operator Corp., 27140–27141

Federal Reserve System
NOTICES
Change in Bank Control:
Acquisition of Shares of Bank or Bank Holding Companies, 27142
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 27142

Federal Retirement Thrift Investment Board
NOTICES
Meetings; Sunshine Act, 27142

Fish and Wildlife Service
NOTICES
Comprehensive Conservation Plan and Environmental Assessment; Intent, etc:
Chassahowitzka National Wildlife Refuge, Citrus and Hernando Counties, FL, 27173–27174
Environmental Assessments; Availability, etc.:
Bayou Teche National Wildlife Refuge, St. Mary Parish, LA, 27174–27176

Food and Drug Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 27145–27146
Draft and Revised Draft Guidances for Industry Describing Product-Specific Bioequivalence Recommendations; Availability, 27146–27148
Final Guidances for Industry Describing Product-Specific Bioequivalence Recommendations; Availability, 27148–27150
Guidance for Industry on Medication Guides:
Adding a Toll-Free Number for Reporting Adverse Events; Availability, 27152–27153
Meetings:
Cardiovascular and Renal Drugs Advisory Committee, 27155–27156

Forest Service
NOTICES
Field Trips:
Okanogan and Wenatchee National Forests Resource Advisory Committee, 27088

Health and Human Services Department
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health

Health Resources and Services Administration
NOTICES
Maternal Child Health Bureau, Healthy Start Eliminating Disparities in Perinatal Health, 27153–27154

Homeland Security Department
See U.S. Customs and Border Protection

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See Minerals Management Service
See National Park Service
NOTICES
Meetings:
Exxon Valdez Oil Spill Trustee Council, 27162
Request for Nominations:
National Invasive Species Council, 27162–27163

Internal Revenue Service
RULES
Allocations and Reporting of Mortgage Insurance Premiums; Correction, 27079
Use of Actuarial Tables in Valuing Annuities, Interests for Life or Terms of Years, etc.; Correction, 27080
Use of Actuarial Tables in Valuing Annuities, Interests for Life or Terms of Years, etc.; Correction, 27079–27080
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 27234–27240
Agency Information Collection Activities; Proposals, Submissions, and Approvals; Correction, 27241
Agency Information Collection Activities; Proposals, Submissions, and Approvals; Correction, 27240–27241
Meetings:
Correction; Taxpayer Advocacy Panel Small Business/Self Employed Issue Committee, 27241

International Trade Administration
NOTICES
Antidumping:
Chlorinated Isocyanurates from the People's Republic of China, 27104–27109
Freshwater Crawfish Tail Meat From the People's Republic of China, 27109–27114
Heavy Forged Hand Tools from the People's Republic of China, 27103–27104
Pure Magnesium from the People's Republic of China, 27090–27097
Saccharin from the People's Republic of China, 27089–27090
Stainless Steel Plate in Coils from Belgium, 27097–27103

International Trade Commission
NOTICES
Investigations:
Semiconductor Integrated Circuits and Products Containing Same, 27181

Justice Department
NOTICES
Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act, 27181

Labor Department
See Mine Safety and Health Administration
See Occupational Safety and Health Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 27182–27183
Combating Exploitive Child Labor through Education in Guatemala, Indonesia, Nepal, and Rwanda, 27183

Land Management Bureau
NOTICES
Environmental Impact Statements; Intent, etc.:
SES Solar One Project, San Bernardino County, CA, 27176–27178
Realty Actions:
Lyon County, NV, 27179–27180

Mine Safety and Health Administration
NOTICES
Petitions for Modification of Existing Mandatory Safety Standards, 27185–27186

Minerals Management Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 27163–27173

National Archives and Records Administration
NOTICES
Records Schedules:
Availability and Request for Comments, 27186–27188

National Institutes of Health
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 27143
Government-Owned Inventions; Availability for Licensing, 27150–27152
Meetings:
Center for Scientific Review, 27156–27160
Eunice Kennedy Shriver National Institute of Child Health and Human Development, 27160–27161
National Cancer Institute, 27160
National Institute of Allergy and Infectious Diseases, 27154–27155
National Institute of Biomedical Imaging and Bioengineering, 27154
National Institute of Diabetes and Digestive and Kidney Diseases, 27155, 27160
National Institute of General Medical Sciences, 27154, 27161

National Park Service
NOTICES
Environmental Impact Statements:
Jean Lafitte National Historical Park and Preserve, Chalmette Battlefield and National Cemetery; Termination, 27176
National Register of Historic Places:
Pending Nominations and Related Actions, 27178
Weekly Listing of Historic Properties, 27178–27179

Navy Department
NOTICES
Privacy Act; Systems of Records, 27123–27127

Nuclear Regulatory Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 27188
Applications:
Pennsylvania State University; Breazeale Reactor; Facility Operating License, 27188–27190
Issuance of Director's Decisions:
Indian Point Nuclear Generating Unit Nos. 2 and 3, Entergy Nuclear Operations, Inc., 27190–27191
NRC Enforcement Policy Revision, 27191–27192
Report to Congress on Abnormal Occurrences, Fiscal Year 2008, 27192–27196

Occupational Safety and Health Administration
NOTICES
Meetings:
Federal Advisory Council on Occupational Safety and Health (FACOSH), 27183–27185

Pension Benefit Guaranty Corporation
RULES
Disclosure and Amendment of Records Pertaining to Individuals Under the Privacy Act, 27080–27083

Securities and Exchange Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 27203–27209
Applications:
WisdomTree Investments, Inc., et al., 27209–27211
Self-Regulatory Organizations; Proposed Rule Changes:
BATS Exchange, Inc., 27222–27224
Chicago Board Options Exchange, Inc., 27211–27214, 27220–27222
Financial Industry Regulatory Authority, Inc., 27214–27217
International Securities Exchange, LLC, 27224–27228
NASDAQ OMX PHLX, Inc., 27217–27220

Small Business Administration
NOTICES
Business Loan Program Temporary Eliminations/Reductions in Fees, 27196–27199
Business Loan Program Temporary Increased Guaranty Percentage, 27199–27202
Disaster Declarations:
Kentucky, 27202
Meetings:
North Florida District Advisory Council, 27202
Small Business Size Standards:
Waiver of the Nonmanufacturer Rule, 27202–27203

Southwestern Power Administration
NOTICES
Draft Addendum to Final Determination of Federal and Non-Federal Hydropower Impacts:
White River Minimum Flows, 27135–27137

State Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 27228–27229
Environmental Impact Statements; Availability, etc.:
Enbridge Energy, Limited Partnership ('Alberta Clipper Project'), 27229–27231
Issuance of an Amended Presidential Permit Authorizing the Construction, Operation, and Maintenance of an International Bridge near McAllen, Texas, etc., 27231–27233

Transportation Department
See Federal Aviation Administration

Treasury Department
See Internal Revenue Service

U.S. Customs and Border Protection
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 27161

Reader Aids
Consult the Reader Aids section at the end of this page for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
301 27071

14 CFR
36 27076
71 (3 documents) 27076, 27077, 27078

26 CFR
1 (3 documents) 27079, 27080
20 (2 documents) 27079, 27080
25 27080

29 CFR
4001 27080
4901 27080
4902 27080

40 CFR
Proposed Rules:
52 27084
93 27085

Rules and Regulations

Federal Register
Vol. 74, No. 108
Monday, June 8, 2009

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. APHIS–2006–0153]

RIN 0579–AC25

South American Cactus Moth; Quarantine and Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the domestic quarantine regulations to establish regulations to restrict the interstate movement of South American cactus moth host material, including nursery stock and plant parts for consumption, from infested areas of the United States. This action is intended to help prevent the artificial spread of South American cactus moth into noninfested areas of the United States.

DATES: *Effective Date:* July 8, 2009.

FOR FURTHER INFORMATION CONTACT: Dr. Robyn Rose, National Program Lead, Emergency and Domestic Programs, PPQ, APHIS, 4700 River Rd., Unit 26, Riverdale, MD 20737–1236; (301) 734–7121.

SUPPLEMENTARY INFORMATION:

Background

The South American cactus moth (*Cactoblastis cactorum*) is a grayish-brown moth with a wingspan of 22 to 35 millimeters (approximately 0.86 to 1.4 inches) that is indigenous to Argentina, southern Brazil, Paraguay, and Uruguay. It is a serious quarantine pest of *Opuntia* spp., and an occasional pest of *Nopalea* spp., *Cylindropuntia* spp., and *Consolea* spp., four closely related genera of the family Cactaceae. After an incubation period following mating, the female South American cactus moth deposits an egg stick resembling a cactus spine on the host plant. The egg stick, which consists of 70 to 90 eggs, hatches in 25 to 30 days and the larvae bore into the cactus pad to feed, eventually hollowing it out and killing the plant. Within a short period of time, the South American cactus moth can destroy whole stands of cactus.

On February 11, 2008, we published in the **Federal Register** (73 FR 7679–7686, Docket No. APHIS–2006–0153) a proposed rule [1] in which we proposed to establish domestic South American cactus moth regulations by adding a new subpart, ''South American Cactus Moth'' (§§ 301.55 through 301.55–9) to our regulations in 7 CFR part 301. Our proposed regulations provided for the designation of quarantined areas and restrictions on the interstate movement of regulated articles from quarantined areas into or through noninfested States.

We solicited comments on our proposal for 60 days ending April 11, 2008. In a document published in the **Federal Register** on September 18, 2008 (73 FR 54082–54083), we announced the availability of an environmental assessment (EA) and reopened and extended the deadline for comments until October 20, 2008. The notice also announced that we planned to add Mississippi to the list of quarantined areas because the South American cactus moth had been found in that State. We received a total of 10 comments by the close of the comment period. They were from private citizens, industry groups, a regional plant protection organization, an environmental organization, State Universities, a State department of agriculture, a Federal agency, and a Federal research laboratory. All the commenters supported the proposed rule. However seven commenters raised specific issues or questions regarding certain provisions of the proposed rule.

One commenter stated that APHIS should only quarantine less than an entire State for South American cactus moth if the State has imposed restrictions for the intrastate movement of regulated articles that are at least as stringent as those imposed on the interstate movement of regulated articles and where APHIS has found that the designation of a more limited range as a quarantined area would effectively prevent the interstate spread of South American cactus moth.

We agree with the commenter. In both the proposed rule and this final rule, § 301.55–3 spells out the criteria that must be met in order to quarantine less than an entire State. These criteria include the considerations raised by the commenter.

One commenter stated that South American cactus moth was found on Petit Bois Island in Mississippi and stated that APHIS should determine quickly whether Mississippi should be designated as a quarantined area. Another commenter mentioned the possibility that other States may need to be quarantined for South American cactus moth in the future if the moth cannot be contained.

Since publication of the proposed rule, South American cactus moth has been found to be present in Mississippi, and, as noted previously, we stated in our September 2008 notice that we planned to add Mississippi to the list of States quarantined for South American cactus moth. We will add any additional States or portions of States to the South American cactus moth quarantine as necessary in accordance with the regulations.

One commenter asked for clarification of when a limited permit may be required for the movement of regulated articles.

As stated in § 301.55–5(b), a limited permit may be issued for regulated articles when an inspector finds that, because of a possible pest risk, the articles may be safely moved interstate only subject to further restrictions, such as movement to limited areas or movement for limited purposes. Specifically, the regulations provide that a limited permit may be issued by an inspector for the interstate movement of a regulated article if the inspector determines that the article (1) Is to be moved interstate to a specified destination for specified handling, processing or utilization, and that the movement will not result in the spread of the South American cactus moth because life stages of the South American cactus moth will be destroyed by the specified handling, processing, or utilization; (2) will be moved in compliance with any additional

[1] To view the proposed rule, the EA, and the comments we received, go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2006-0153.*

conditions imposed by APHIS under section 414 of the Plant Protection Act (7 U.S.C. 7714) to prevent the spread of the South American cactus moth; and (3) is eligible for interstate movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article.

One commenter disagreed with the explanation in the preamble of the proposed rule that stated the South American cactus moth was likely introduced into Florida via infested nursery plants.

While we pointed to infested nursery stock as the most likely route of introduction, it is possible that the moth could have spread naturally to Florida.

One commenter stated that the requirements for the interstate movement of South American cactus moth host plant material from quarantined areas is too restrictive, specifically the requirement that host and non-host plants be separated while in the nursery and the required frequency of treatments.

The separation between host and non-host plants is necessary because South American cactus moth larvae pupate in soil or debris near the plants on which they feed. If host and non-host plants are placed close together, the larvae may easily move to a nearby non-host plant to pupate and could then be shipped. The treatment regimen was developed because South American cactus moth eggs develop and hatch within 25 to 30 days. Because of the risk of eggs being laid after a single treatment or in between multiple treatments, and because inspection may not detect all eggs, spraying is required every 21 days as well as 3 days prior to shipment.

One commenter suggested that APHIS should ban all imports of prickly pear cacti from entering the United States because of the risk of domestic growers importing prickly pear pads that may be infested with South American cactus moth into areas outside of the quarantined areas.

We are developing regulations to address the risks of introducing South American cactus moth on host material imported from foreign countries where the pest is present. We will also make any necessary amendments to our Hawaiian and territorial quarantine regulations in 7 CFR part 318 to address the risks presented by South American cactus moth.

One commenter expressed concern that the proposed rule could negatively impact the movement of cactus pads and fruits for consumption from outside the quarantined area to commercial food warehouses and distribution centers located within the quarantined area and suggested changes to the regulations to make provisions for such movement.

We agree with the commenter that such movement presents low risk of spreading South American cactus moth. Therefore, we have amended the regulations in § 301.55–4 in this final rule to provide for the movement, without a certificate or limited permit, of cactus pads or fruits for consumption from outside of the quarantined area to a commercial food warehouse or distribution center in the quarantined area as long as the articles are moved in accordance with the protocols described in a compliance agreement and remain covered with canvas, plastic, or closely woven cloth adequate to prevent access by South American cactus moths while within the quarantined area.

One commenter expressed concern that the use of insecticides to treat cactus pads for South American cactus moth is harmful to other insect species.

While we understand the commenter's concern, as stated in the EA, the required insecticide treatments will take place within nurseries, likely within enclosed greenhouses or shadehouses. This provision will significantly reduce the risk of exposure to other insect species.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document.

In addition, we are advising the public of our decision and finding of no significant impact regarding our decision to quarantine the States of Alabama, Florida, Georgia, South Carolina, and Mississippi because of South American cactus moth and restrict the interstate movement of regulated articles from the quarantined areas. This decision is based upon the EA, entitled ''Quarantine for the South American Cactus Moth *Cactoblastis cactorum,* in Florida, South Carolina, Georgia, Alabama, and Mississippi; Environmental Assessment''(August 2008), which we made available for comment in our September 2008 notice. We did not receive any comments regarding the EA. For instructions on viewing the EA and the finding of no significant impact, please see below under the heading ''National Environmental Policy Act.''

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In this rule, we are establishing regulations to restrict the interstate movement of South American cactus moth host material from quarantined areas to non-quarantined areas. Prior to this rule, there were no restrictions on the interstate movement of South American cactus moth host material from areas on the mainland that were found to be infested with the pest.[2] In addition, the rule designates the States of Alabama, Florida, Georgia, Mississippi, and South Carolina, in their entirety, as quarantined areas for South American cactus moth.

All current growers in the five-State quarantined area are believed to produce host materials primarily for use in dish gardens of mixed species. For these growers, the rule will not be particularly problematic. This is because other species of cactus could easily be substituted for host species cactus in dish gardens shipped to non-quarantined areas. However, the rule could pose a problem for would-be growers of prickly pear cactus for the small but growing food market.[3] This is because, if found to be infested with South American cactus moth, they will be unable to ship fresh cactus leaves and fruit to non-quarantined areas, including some areas with large Hispanic populations. Although these growers will be able to ship canned, preserved, or frozen cactus food from a quarantined area, consumers prefer the fresh varieties.[4] The number of would-be growers of cactus for use as food in the five-State quarantined area is unknown, but it is likely to be very small, based on the small number of ornamental cactus growers in that area.

To the extent that it prevents the spread of *C. cactorum,* the rule will benefit U.S. entities, primarily those in the ornamental nursery and landscape industries in the Southwest. Most commercial nurseries that produce prickly pear cacti as ornamental plants are located in Arizona, followed by California. In Arizona, there are an estimated 40 to 50 such producers in the Phoenix area alone; in California, there are an estimated 30 growers of ornamental cacti. U.S. production of

[2] Currently, cactus plants or parts thereof moving from Hawaii, Puerto Rico, or the U.S. Virgin Islands into the continental United States are prohibited or restricted under 7 CFR part 318 in order to prevent the dissemination of South American cactus moth.

[3] The Florida Department of Plant Industry has promoted the use of prickly pear cactus as a niche crop to fill the Hispanic market demand.

[4] Florida Department of Agriculture and Consumer Services, ''Nopalitos: Florida's New Niche Production Commodity,'' Final Report for Agreement #12–25–G–0382.

prickly pear cactus for edible use is limited largely to California; many, if not most, cactus growers are small in size.[5]

Based on available information, we conclude that the rule will not have a significant economic impact on a substantial number of small entities. Although it is possible that some growers could be significantly affected, the number so affected is likely to be very small. Although hard data are not available, informed APHIS staff estimate that there are no more than about seven producers of the host material in the five-State quarantined area, most of whom are believed to be Florida nurseries that produce prickly pear cactus, usually for use in dish gardens of mixed species. The bulk of U.S. prickly pear cactus production, both for use as an ornamental plant and for use as an edible food, is concentrated in the southwestern United States, not the five southeastern States designated as quarantined areas.[6]

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (*See* 7 CFR part 3015, subpart V.)

National Environmental Policy Act

An EA and finding of no significant impact have been prepared for this final rule. The EA provides a basis for the conclusion that the establishment of regulations for South American cactus moth will not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The EA and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

The EA and finding of no significant impact may be viewed on the Regulations.gov Web site.[7] Copies of the EA and finding of no significant impact are also available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579–0337. E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

■ Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

■ 1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 issued under Sec. 204, Title II, Public Law 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 issued under Sec. 203, Title II, Public Law 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

■ 2. Part 301 is amended by adding a new Subpart—South American Cactus Moth, §§ 301.55 through 301.55–9, to read as follows:

Subpart—South American Cactus Moth

Sec.
301.55 Restrictions on interstate movement of regulated articles.
301.55–1 Definitions.
301.55–2 Regulated articles.
301.55–3 Quarantined areas.
301.55–4 Conditions governing the interstate movement of regulated articles from quarantined areas.
301.55–5 Issuance and cancellation of certificates and limited permits.
301.55–6 Compliance agreements and cancellation.
301.55–7 Assembly and inspection of regulated articles.
301.55–8 Attachment and disposition of certificates and limited permits.
301.55–9 Costs and charges.

Subpart—South American Cactus Moth

§ 301.55 Restrictions on interstate movement of regulated articles.

No person may move interstate from any quarantined area any regulated article except in accordance with this subpart.[1]

§ 301.55–1 Definitions.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

Cactus plants. Any of various fleshy-stemmed plants of the botanical family Cactaceae.

Certificate. A document in which an inspector or person operating under a compliance agreement affirms that a specified regulated article is free of South American cactus moth and may be moved interstate to any destination.

Compliance agreement. A written agreement between APHIS and a person engaged in growing, handling, or moving regulated articles, wherein the person agrees to comply with this subpart.

Departmental permit. A document issued by the Administrator in which he or she affirms that interstate movement of the regulated article identified on the

[5] *Source:* Lynn Garrett (APHIS) and Irish, M. 2001. The Ornamental Prickly Pear Industry in the Southwestern United States. Florida Entomologist 84(4).

[6] *See* footnote 5.

[7] *See* footnote 1 at the beginning of this document.

[1] Any properly identified inspector is authorized, upon probable cause, to stop and inspect persons and means of conveyance moving in interstate commerce and to hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of regulated articles as provided in sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

document is for scientific or experimental purposes and that the regulated article is eligible for interstate movement in accordance with § 301.55–4(c).

Infestation. The presence of the South American cactus moth or the existence of circumstances that makes it reasonable to believe that the South American cactus moth may be present.

Inspector. Any employee of APHIS or other person authorized by the Administrator to perform the duties required under this subpart.

Interstate. From any State into or through any other State.

Limited permit. A document in which an inspector or person operating under a compliance agreement affirms that the regulated article identified on the document is eligible for interstate movement in accordance with § 301.55–5(b) only to a specified destination and only in accordance with specified conditions.

Moved (move, movement). Shipped, offered for shipment, received for transportation, transported, carried, or allowed to be moved, shipped, transported, or carried.

Person. Any association, company, corporation, firm, individual, joint stock company, partnership, society, or other entity.

Plant Protection and Quarantine (PPQ). The Plant Protection and Quarantine program of the Animal and Plant Health Inspection Service, United States Department of Agriculture.

Quarantined area. Any State, or any portion of a State, listed in § 301.55–3(c) or otherwise designated as a quarantined area in accordance with § 301.55–3(b).

Regulated article. Any article listed in § 301.55–2(a) or (b), or otherwise designated as a regulated article in accordance with § 301.55–2(c).

South American cactus moth. The live insect known as the South American cactus moth, *Cactoblastis cactorum,* in any life stage (egg, larva, pupa, adult).

State. The District of Columbia, Puerto Rico, the Northern Mariana Islands, or any State, territory, or possession of the United States.

§ 301.55–2 Regulated articles.

The following are regulated articles:

(a) The South American cactus moth, in any living stage of its development.[2]

(b) Cactus plants or parts thereof (excluding seeds and canned, preserved, or frozen pads or fruits) of the following genera: *Consolea, Cylindropuntia, Nopalea,* and *Opuntia.*

(c) Any other product, article, or means of conveyance not listed in paragraphs (a) or (b) of this section that an inspector determines presents a risk of spreading the South American cactus moth, after the inspector provides written notification to the person in possession of the product, article, or means of conveyance that it is subject to the restrictions of this subpart.

§ 301.55–3 Quarantined areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Administrator will list as a quarantined area in paragraph (c) of this section each State, or each portion of a State, in which the South American cactus moth has been found by an inspector, in which the Administrator has reason to believe that the South American cactus moth is present, or that the Administrator considers necessary to quarantine because of its inseparability for quarantine enforcement purposes from localities where South American cactus moth has been found. Less than an entire State will be designated as a quarantined area only if the Administrator determines that:

(1) The State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles that are equivalent to those imposed by this subpart on the interstate movement of regulated articles; and

(2) The designation of less than the entire State as a quarantined area will be adequate to prevent the interstate spread of the South American cactus moth.

(b) The Administrator or an inspector may temporarily designate any nonquarantined area in a State as a quarantined area in accordance with the criteria specified in paragraph (a) of this section. The Administrator will give a copy of this regulation along with written notice of the temporary designation to the owner or person in possession of the nonquarantined area, or, in the case of publicly owned land, to the person responsible for the management of the nonquarantined area. Thereafter, the interstate movement of any regulated article from an area temporarily designated as a quarantined area will be subject to this subpart. As soon as practicable, the area will be added to the list in paragraph (c) of this section or the designation will be terminated by the Administrator or an inspector. The owner or person in possession of, or, in the case of publicly owned land, the person responsible for the management of, an area for which designation is terminated will be given written notice of the termination as soon as practicable.

(c) The following areas are designated as quarantined areas: The States of Alabama, Florida, Georgia, Mississippi, and South Carolina.

§ 301.55–4 Conditions governing the interstate movement of regulated articles from quarantined areas.

Any regulated article may be moved interstate from a quarantined area[3] only if moved under the following conditions:

(a) With a certificate or limited permit issued and attached in accordance with §§ 301.555 and 301.55–8;

(b) Without a certificate or limited permit if:

(1) The regulated article originated outside the quarantined area and is either moved in an enclosed vehicle or is completely enclosed by a covering (such as canvas, plastic, or closely woven cloth) adequate to prevent access by South American cactus moths while moving through the quarantined area; and

(2) The point of origin of the regulated article is indicated on the waybill, and the enclosed vehicle or the enclosure that contains the regulated article is not opened, unpacked, or unloaded in the quarantined area; and

(3) The regulated article is moved through the quarantined area without stopping except for refueling or for traffic conditions, such as traffic lights or stop signs.

(c) Without a certificate or limited permit if the regulated articles are cactus pads and fruits for consumption from outside the quarantined area that are being moved in accordance with the protocols described in a compliance agreement (see § 301.55–6(a)) to a commercial food warehouse or distribution center within the quarantined area and the regulated articles remain enclosed by a covering (such as canvas, plastic, or closely woven cloth) adequate to prevent access by South American cactus moths while within the quarantined area: and

(d) Without a certificate or limited permit if the regulated article is moved:

(1) By the United States Department of Agriculture for experimental or scientific purposes;

(2) Pursuant to a departmental permit issued by the Administrator for the regulated article;

(3) Under conditions specified on the departmental permit and found by the Administrator to be adequate to prevent

[2] Permit and other requirements for the interstate movement of South American cactus moths are contained in part 330 of this chapter.

[3] Requirements under all other applicable Federal domestic plant quarantines and regulations must also be met.

the spread of the South American cactus moth; and

(4) With a tag or label bearing the number of the departmental permit issued for the regulated article attached to the outside of the container of the regulated article or attached to the regulated article itself if not in a container.

§ 301.55–5 Issuance and cancellation of certificates and limited permits.

(a) An inspector[4] may issue a certificate for the interstate movement of a regulated article if the inspector determines that:

(1) The regulated article to be moved and all other regulated articles on the premises have been grown and maintained indoors in a shadehouse or greenhouse and no other cactus moth host material exists on the premises outside of a shadehouse or greenhouse;

(2) The regulated article to be moved and all other regulated articles on the premises are maintained on benches that are kept separate from benches containing non-host material;

(3) The regulated article to be moved and all other regulated articles on the premises have been placed on a 21-day insecticide spray cycle and have been sprayed with *Bacillus thuringiensis* subsp. *kurstaki,* carbaryl, spinosad, or imidaploprid if maintained in the nursery for longer than 21 days;

(4) The regulated article to be moved has been sprayed with *Bacillus thuringiensis* subsp. *kurstaki,* carbaryl, spinosad, or imidaploprid 3 to 5 days prior to shipment and inspected and found free of cactus moth egg sticks and larval damage; and

(5) If the regulated article was moved into the premises from another premises in a quarantined area listed in § 301.55–3, it was immediately placed inside the shadehouse or greenhouse and sprayed with *Bacillus thuringiensis* subsp. *kurstaki,* carbaryl, spinosad, or imidaploprid within 24 hours.

(b) An inspector will issue a limited permit for the interstate movement of a regulated article if the inspector determines that:

(1) The regulated article is to be moved interstate to a specified destination for specified handling, processing, or utilization (the destination and other conditions to be listed in the limited permit), and this interstate movement will not result in the spread of the South American cactus moth because life stages of the South American cactus moth will be destroyed by the specified handling, processing, or utilization;

(2) It is to be moved in compliance with any additional conditions that the Administrator may impose under section 414 of the Plant Protection Act (7 U.S.C. 7714) in order to prevent the spread of the South American cactus moth; and

(3) It is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article.

(c) Certificates and limited permits for the interstate movement of regulated articles may be issued by an inspector or person operating under a compliance agreement. A person operating under a compliance agreement may issue a certificate or limited permit for interstate movement of a regulated article after an inspector has determined that the regulated article is eligible for a certificate or limited permit in accordance with paragraphs (a) or (b) of this section.

(d) Any certificate or limited permit that has been issued may be canceled, either orally or in writing, by an inspector whenever the inspector determines that the holder of the limited permit has not complied with this subpart or any conditions imposed under this subpart. If the cancellation is oral, the cancellation will become effective immediately, and the cancellation and the reasons for the cancellation will be confirmed in writing as soon as circumstances permit. Any person whose certificate or limited permit has been canceled may appeal the decision in writing to the Administrator within 10 days after receiving the written cancellation notice. The appeal must state all of the facts and reasons that the person wants the Administrator to consider in deciding the appeal. A hearing may be held to resolve a conflict as to any material fact. Rules of practice for the hearing will be adopted by the Administrator. As soon as practicable, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision.

(Approved by the Office of Management and Budget under control number 0579–0337)

§ 301.55–6 Compliance agreements and cancellation.

(a) Any person engaged in growing, handling, or moving regulated articles may enter into a compliance agreement when an inspector determines that the person is aware of this subpart, agrees to comply with its provisions, and agrees to comply with all the provisions contained in the compliance agreement.[5]

(b) Any compliance agreement may be canceled, either orally or in writing, by an inspector whenever the inspector finds that the person who has entered into the compliance agreement has failed to comply with this subpart or the terms of the compliance agreement. If the cancellation is oral, the cancellation and the reasons for the cancellation will be confirmed in writing as promptly as circumstances allow. Any person whose compliance agreement has been canceled may appeal the decision, in writing, to the Administrator, within 10 days after receiving written notification of the cancellation. The appeal must state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully canceled. As promptly as circumstances allow, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material fact. Rules of practice concerning a hearing will be adopted by the Administrator.

(Approved by the Office of Management and Budget under control number 0579–0337)

§ 301.55–7 Assembly and inspection of regulated articles.

(a) Any person (other than a person authorized to issue limited permits under § 301.555(c)) who desires a certificate or limited permit to move a regulated article interstate must request an inspector[6] to examine the articles as far in advance of the desired interstate movement as possible, but no less than 48 hours before the desired interstate movement.

(b) The regulated article must be assembled at the place and in the manner the inspector designates as necessary to comply with this subpart.

§ 301.55–8 Attachment and disposition of certificates and limited permits.

(a) A certificate or limited permit required for the interstate movement of a regulated article must, at all times during the interstate movement, be:

(1) Attached to the outside of the container containing the regulated article; or

(2) Attached to the regulated article itself if not in a container; or

(3) Attached to the consignee's copy of the accompanying waybill. If the certificate or limited permit is attached to the consignee's copy of the waybill,

[4] Services of an inspector may be requested by contacting local offices of Plant Protection and Quarantine, which are listed in telephone directories.

[5] Compliance agreement forms are available without charge from local Plant Protection and Quarantine offices, which are listed in telephone directories.

[6] *See* footnote 4.

the regulated article must be sufficiently described on the certificate or limited permit and on the waybill to identify the regulated article.

(b) The certificate or limited permit for the interstate movement of a regulated article must be furnished by the carrier or the carrier's representative to the consignee listed on the certificate or limited permit upon arrival at the location provided on the certificate or limited permit.

(Approved by the Office of Management and Budget under control number 0579–0337)

§ 301.55–9 Costs and charges.

The services of the inspector during normal business hours (8 a.m. to 4:30 p.m., Monday through Friday, except holidays) will be furnished without cost. APHIS will not be responsible for all costs or charges incident to inspections or compliance with the provisions of the quarantine and regulations in this subpart, other than for the services of the inspector.

Done in Washington, DC, this 2nd day of June 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9–13317 Filed 6–5–09; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 36

Calculation of Noise Levels Published in Advisory Circular 36–3

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Statement of policy.

SUMMARY: This action clarifies the Federal Aviation Administration's (FAA) policy on the calculation of derived noise levels submitted for publication in Advisory Circular (AC) 36–3, Estimated Airplane Noise Levels in A–Weighted Decibels. This action is intended to provide guidance on calculating the derived levels used in that publication.

FOR FURTHER INFORMATION CONTACT: Mr. James Skalecky, Office of Environment and Energy (AEE–100), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3699; facsimile (202) 267–5594; e-mail *James.Skalecky@faa.gov.*

Background

Paragraph 3 of AC 36–3 states that ''14 CFR part 36 requires the reporting of turbojet and large transport category aircraft certificated noise levels in units of Effective Perceived Noise Level in decibels (EPNdB). Many airport and other community noise analyses utilize a noise rating scale that is based upon A-weighted decibels. For this reason, A-weighted noise levels for aircraft under 14 CFR part 36 conditions have been estimated to provide a reference source for aircraft noise levels that is consistent with the many noise rating scales having A-weighted noise level as the basic measure.'' The noise levels published in AC 36–3 for turbojet and large transport category airplanes are usually submitted to the FAA by the airplane type certificate (or supplemental type certificate) holder. The entity submitting the noise levels for publication is responsible for deriving the A-weighted level from the EPNdB levels submitted for certification.

Recently, we received an inquiry requesting a clarification of those reference procedures, data analysis procedures, and data corrections that are to be used in deriving A-weighted noise levels for publication in AC 36–3. The question and our policy stated in this document apply only to noise levels for turbojet and large transport category airplanes.

Policy Statement

In order to ensure that all airplane noise levels submitted for publication in AC 36–3 are derived in a consistent manner, it is the FAA's policy that the noise levels be derived using the same reference procedures, data analysis procedures, and data corrections/adjustments that were used in deriving the 14 CFR part 36 certificated noise levels. The only exceptions are for deviations necessitated by (1) differences between the effective perceived noise level and A-weighted sound level metrics, or (2) inclusion of approach noise levels corresponding to use of less than the maximum flap setting, as permitted under AC 36–3, paragraph 4.a. In the case of number 2, the deviation is limited to the use of an approach configuration other than the noise-critical configuration that is required for the noise certification approach reference procedure by part 36, Appendix B, paragraph B36.7(c)(5). Such deviations must be identified to the FAA when the data are submitted for inclusion in the AC. No other deviations will be accepted.

When an airplane model that is already listed in AC 36–3 is recertificated from 14 CFR part 36 Stage 3 to Stage 4, the noise levels corresponding to the Stage 3 configuration are not automatically replaced. The Stage 3 noise levels will remain in AC 36–3, unless noise levels corresponding to the Stage 4 configuration are submitted for publication. If Stage 4 noise levels are submitted, the FAA will remove the Stage 3 noise levels from AC 36–3 for that model and replace them with the Stage 4 noise levels when the AC is updated.

Noise levels submitted for Stage 4 configurations must conform to this policy for deriving noise levels submitted for publication in AC 36–3.

Issued in Washington, DC, on June 2, 2009.

Lourdes Q. Maurice,

Acting Director of Environment and Energy.

[FR Doc. E9–13333 Filed 6–5–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–1236; Airspace Docket No. 08–AGL–16]

Amendment of Class E Airspace; Waverly, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Waverly, OH. Additional controlled airspace is necessary to accommodate Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAP) at Pike County Airport, Waverly, OH. The FAA is taking this action to enhance the safety and management of Instrument Flight Rule (IFR) operations at Pike County Airport.

DATES: *Effective Date:* 0901 UTC, August 27, 2009. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76193–0530; telephone (817) 321–7716.

SUPPLEMENTARY INFORMATION:

History

On March 12, 2009, the FAA published in the **Federal Register** a notice of proposed rulemaking to amend Class E airspace at Waverly, OH, adding additional controlled airspace at Pike County Airport, Waverly, OH. (74 FR 10690, Docket No. FAA–2009–1236). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9S signed October 3, 2008 and effective October 31, 2008, which is incorporated by reference in 14 CFR Part 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by amending Class E airspace at Waverly, OH, adding additional controlled airspace at Pike County Airport, Waverly, OH, for the safety and management of IFR operations.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it adds additional controlled airspace at Pike County Airport, Waverly, OH.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR Part 71.1 of the Federal Aviation Administration Order 7400.9S, Airspace Designations and Reporting Points, signed October 3, 2008 and effective October 31, 2008, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface.

* * * * *

AGL OH E5 Waverly, OH [Amended]

Pike County Airport, OH

(Lat. 39°10′01″ N., long. 82°55′41″ W.)

That airspace extending upward from 700 feet above the surface within a 9.9-mile radius of Pike County Airport.

* * * * *

Issued in Fort Worth, Texas, on May 18, 2009.

Anthony D. Roetzel,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. E9–13182 Filed 6–5–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–0127; Airspace Docket No. 09–AGL–4]

Amendment of Class E Airspace; Cleveland, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Cleveland, OH. Additional controlled airspace is necessary to accommodate Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAP) at Lorain County Regional Airport, Lorain, OH. The FAA is taking this action to enhance the safety and management of Instrument Flight Rule (IFR) operations at Lorain County Regional Airport.

DATES: *Effective Date:* 0901 UTC, August 27, 2009. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76193–0530; telephone (817) 321–7716.

SUPPLEMENTARY INFORMATION:

History

On March 9, 2009, the FAA published in the **Federal Register** a notice of proposed rulemaking to amend Class E airspace at Cleveland, OH, adding additional controlled airspace at Lorain County Regional Airport, Cleveland, OH. (74 FR 9973, Docket No. FAA–2009–0127). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9S signed October 3, 2008, and effective October 31, 2008, which is incorporated by reference in 14 CFR Part 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by amending Class E airspace at Cleveland, OH, adding additional controlled airspace at Lorain County Regional Airport, Lorain, OH, for the safety and management of IFR operations.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated

impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it adds additional controlled airspace in the Cleveland, OH area at Lorain County Regional Airport, Lorain, OH.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

■ 1. The authority citation for 14 CFR Part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR Part 71.1 of the Federal Aviation Administration Order 7400.9S, Airspace Designations and Reporting Points, signed October 3, 2008, and effective October 31, 2008, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface.

* * * * *

AGL OH E5 Cleveland, OH [Amended]

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 41°25′00″ N., long. 82°23′00″ W., to lat. 41°56′00″ N., long. 81°22′00″ W., to lat. 41°48′00″ N., long. 81°02′00″ W., to lat. 41°32′00″ N., long. 81°03′00″ W., to lat. 41°11′00″ N., long. 81°48′00″ W., to lat. 41°11′00″ N., long. 82°21′00″ W., to lat. 41°14′39″ N., long. 82°21′44″ W., to lat. 41°18′06″ N., long. 82°23′52″ W., to lat. 41°18′42″ N., long. 82°22′07″ W., thence to the point of beginning.

* * * * *

Issued in Fort Worth, Texas, on May 14, 2009.

Anthony D. Roetzel,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. E9–13184 Filed 6–5–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–0115; Airspace Docket No. 09–AGL–3]

Amendment of Class E Airspace; Mount Sterling, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Mount Sterling, IL. Additional controlled airspace is necessary to accommodate Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAP) at Mount Sterling Municipal Airport, Mount Sterling, IL. The FAA is taking this action to enhance the safety and management of Instrument Flight Rule (IFR) operations at Mount Sterling Municipal Airport.

DATES: *Effective Date:* 0901 UTC, August 27, 2009. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76193–0530; telephone (817) 321–7716.

SUPPLEMENTARY INFORMATION:

History

On March 9, 2009, the FAA published in the **Federal Register** a notice of proposed rulemaking to amend Class E airspace at Mount Sterling, IL, adding additional controlled airspace at Mount Sterling Municipal Airport, Mount Sterling, IL. (74 FR 9974, Docket No. FAA–2009–0115). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9S signed October 3, 2008, and effective October 31, 2008, which is incorporated by reference in 14 CFR Part 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by amending Class E airspace at Mount Sterling, IL, adding additional controlled airspace at Mount Sterling Municipal Airport, Mount Sterling, IL, for the safety and management of IFR operations.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it adds additional controlled airspace at Mount Sterling Municipal Airport, Mount Sterling, IL.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR Part 71.1 of the Federal Aviation Administration Order 7400.9S, Airspace Designations and Reporting Points, signed October 3, 2008, and effective October 31, 2008, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface.

* * * * *

AGL IL E5 Mount Sterling, IL [Amended]

Mount Sterling Municipal Airport, IL
(Lat. 39°59′07″ N., long. 90°48′15″ W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Mount Sterling Municipal Airport.

* * * * *

Issued in Fort Worth, Texas, on May 14, 2009.

Anthony D. Roetzel,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. E9–13185 Filed 6–5–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9449]

RIN 1545–BH84

Allocation and Reporting of Mortgage Insurance Premiums; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to temporary regulations (TD 9449) that were published in the **Federal Register** on Thursday, May 7, 2009 (74 FR 21256) that explain how to allocate prepaid qualified mortgage insurance premiums to determine the amount of the prepaid premium that is treated as qualified residence interest each taxable year under section 163(h)(4)(F) of the Internal Revenue Code. The temporary regulations also provide guidance to reporting entities receiving premiums, including prepaid premiums, for mortgage insurance. The temporary regulations reflect changes to the law made by the Tax Relief and Health Care Act of 2006 and the Mortgage Forgiveness Debt Relief Act of 2007.

DATES: This correction is effective on June 8, 2009, and is applicable beginning May 7, 2009.

FOR FURTHER INFORMATION CONTACT: Angela Warren (202) 622–4950 or Stephen Coleman (202) 622–4910 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations that are the subject of this document are under section 163–11T(e) of the Internal Revenue Code.

Need for Correction

As published, the temporary regulations (TD 9449) contain an error that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

■ Accordingly, 26 CFR part 1 is corrected by making the following correcting amendment:

PART 1—INCOME TAXES

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

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

§ 1.163–11T [Amended]

■ **Par. 2.** Section 1.163–11T, paragraph (e) is amended by removing the language in the first sentence ''expires on May 7, 2012.'' and adding in its place ''expires on May 4, 2012.''

Diane O. Williams,

Federal Register Liaison, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E9–13234 Filed 6–5–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 20

[TD 9448]

RIN 1545–BH96; RIN 1545–BI56

Use of Actuarial Tables in Valuing Annuities, Interests for Life or Terms of Years, and Remainder or Reversionary Interests; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to final regulations (TD 9448), that were published in the **Federal Register** on Thursday, May 7, 2009 (74 FR 21438). This regulation relates to the use of actuarial tables in valuing annuities, interests for life or terms of years, and remainder or reversionary interests.

DATES: This correction is effective on June 8, 2009 and is applicable beginning May 1, 2009.

FOR FURTHER INFORMATION CONTACT: Mayer R. Samuels, (202) 622–3090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulation (TD 9448) that is the subject of this correction is under sections 170 and 2032 of the Internal Revenue Code.

Need for Correction

As published, TD 9448 contains errors that may prove to be misleading and is in need of clarification.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 20

Estate taxes, Reporting and recordkeeping requirements.

Correction of Publication

■ Accordingly, 26 CFR parts 1 and 20 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** For each section listed in the table below, remove the language in the

''Remove'' column and add in its place the language in the ''Add'' column as set forth below:

Section	Remove	Add
§ 1.170A–12(e)(2) following the formula	Table 90CM in § 20.2031–7	Table 2000CM in § 20.2031–7T.

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

■ **Par. 3.** The authority citation for part 20 continues to read in part as follows:

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

■ **Par. 4**. Section 20.2032–1 is amended by revising paragraph (f)(1) to read as follows:

§ 20.2032–1 Alternate valuation.

* * * * *

(f) * * *

(1) [Reserved]. Further guidance, see § 20.2032–1T(f)(1).

* * * * *

Treena V. Garrett,

Federal Register Liaison, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E9–13241 Filed 6–5–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 20 and 25

[TD 9448]

RIN 1545–BH96; RIN 1545–BI56

Use of Actuarial Tables in Valuing Annuities, Interests for Life or Terms of Years, and Remainder or Reversionary Interests; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final and temporary regulations.

SUMMARY: This document contains a correction to final and temporary regulations (TD 9448, that were published in the **Federal Register** on Thursday, May 7, 2009 (74 FR 21438). This regulation relates to the use of actuarial tables in valuing annuities, interests for life or terms of years, and remainder or reversionary interests.

DATES: This correction is effective on June 8, 2009 and is applicable beginning May 1, 2009.

FOR FURTHER INFORMATION CONTACT: Mayer R. Samuels, (202) 622–3090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final and temporary regulations (TD 9448) that are the subject of this correction is under section 2031of the Internal Revenue Code.

Need for Correction

As published, TD 9448 contains errors that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the final and temporary regulations (TD 9448), that were the subject of FR Doc. E9–10111, is corrected as follows:

1. On page 21439, in the preamble under the paragraph heading ''Background'', in the table ''CROSS REFERENCE TO REGULATION SECTIONS'', the fourth column under section 2031, the third line, the language ''Table S (5/1/99–05/01/99) and Life'' is corrected to read ''Table S (5/1/99–04/30/09) and Life''.

2. On page 21439, in the preamble under the paragraph heading, ''Transitional Rules'', in the first column, nine lines from the bottom, the language, ''on or after May 7, 2009, and before July'' is corrected to read ''on or after May 1, 2009, and before July''.

Treena V. Garrett,

Federal Register Liaison, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, Procedure and Administration.

[FR Doc. E9–13242 Filed 6–5–09; 8:45 am]

BILLING CODE 4830–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4001, 4901, and 4902

Disclosure and Amendment of Records Pertaining to Individuals Under the Privacy Act

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: Pension Benefit Guaranty Corporation (PBGC) is amending its Privacy Act regulations to exempt certain records that are maintained in a system of records entitled ''PBGC–17, Office of Inspector General Investigative File System—PBGC'' from the access, contest, and certain other provisions of the Privacy Act. The amendment protects the information gathered to carry out the Office of Inspector General's law enforcement mission to investigate criminal, civil, and administrative matters.

DATES: Effective July 8, 2009.

FOR FURTHER INFORMATION CONTACT: Margaret E. Drake, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026; 202–326–4400 (extension 3228); or James Bloch, Program Analyst, Legislative & Regulatory Department; 202–326–4223 (extension 3530). (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4400 (extension 3228) or 202–326–4223 (extension 3530).)

SUPPLEMENTARY INFORMATION: PBGC's Office of Inspector General (OIG) conducts criminal, civil and administrative investigations and compiles and maintains case files containing identifying information about potential subjects and sources. On March 30, 2009 (74 FR 14167), PBGC proposed a new system of records subject to the Privacy Act of 1974, 5 U.S.C. 552a (''Privacy Act''), entitled ''PBGC–17, Office of Inspector General Investigative File System—PBGC.'' PBGC received no comments on the new proposed system of records and the system became effective May 14, 2009. The system of records covers only the files of investigation that identify by name, or other personal identifier, individuals who are subjects or sources of information. The system of records is necessary to the investigative functions performed by the OIG under the authority of the Inspector General Act of 1978, as amended, 5 U.S.C. App. 3. The files may contain information about criminal, civil or administrative wrongdoing, or about fraud, waste or mismanagement, or other violations of law or regulation. This information could be the basis for referrals to appropriate prosecutorial authorities for consideration of criminal or civil prosecution or to PBGC management for administrative corrective action. The collection and maintenance of these

types of records that are subject to this system are not new; however, in the past they have not been retrieved by a name or other personal identifier. OIG is implementing an electronic records management system from which records will be retrieved by name or other personal identifier.

Regulatory Changes

On March 30, 2009 (74 FR 14100), PBGC also published a proposed rule to amend its Privacy Act regulations (29 CFR part 4902) to exempt, under 5 U.S.C. 552a(j) and (k), certain records that will be maintained in PBGC–17 from the access, contest, and certain other provisions of the Privacy Act, and to make other minor changes. PBGC received no comments on the proposed rule and the final regulation is unchanged from the proposed regulation.

Exemptions

The amendments exempting certain records that will be maintained in PBGC–17 from certain provisions of the Privacy Act protect the information gathered to carry out OIG's law enforcement mission to investigate criminal, civil, and administrative matters. The exemptions relate to records maintained by OIG pertaining to the enforcement of criminal laws (*see* 5 U.S.C. 552a(j)(2)) and investigatory material compiled for law enforcement generally (*see* 5 U.S.C. 552a(k)(2)), and for determining individuals' eligibility or qualifications for Federal employment or Federal contracts (*see* 5 U.S.C. 552a(k)(5)).

Other Changes

Section 411 of the Pension Protection Act of 2006, Public Law 109–280, amended section 4002(a) of ERISA to state that PBGC is to be administered by a Director appointed by the President, subject to Senate confirmation. Thus, PBGC is replacing all references to the term ''Executive Director'' in part 4902 with the term ''Director.'' PBGC also is replacing all references to the term ''Deputy Executive Director'' in part 4902 with the term ''Deputy Director for Operations.''

The final rule updates the definition of PBGC's Disclosure Officer, removes the definition of Disclosure Officer from regulation § 4901.2 and § 4902.2, and centralizes the definition in § 4001.2. The rule also directs individuals to PBGC's Web site (*http://www.pbgc.gov*) for information on where an individual can address a request to learn whether PBGC maintains any system of records that contains a record pertaining to the individual and, if so, how to obtain access to such a record.

Compliance With Rulemaking Guidelines

PBGC has determined that this final rule is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

PBGC certifies under section 605(b) of the Regulatory Flexibility Act that the amendments in this final rule will not have a significant economic impact on a substantial number of small entities. The rule only affects the maintenance and disclosure of information about individuals by PBGC under the Privacy Act and therefore has no economic impact on entities of any size. Accordingly, sections 603 and 604 of the Regulatory Flexibility Act do not apply.

List of Subjects

29 CFR Part 4001

Pension insurance.

29 CFR Part 4901

Freedom of information.

29 CFR Part 4902

Privacy.

■ For the reasons set forth above, PBGC is amending 29 CFR parts 4001, 4901, and 4902 as follows:

PART 4001—TERMINOLOGY

■ 1. The authority citation for Part 4001 continues to read as follows:

Authority: 29 U.S.C. 1301, 1302(b)(3).

■ 2. Section 4001.2 is amended by adding a new definition of *Disclosure officer* in alphabetical order to read as follows:

§ 4001.2 Definitions.

* * * * *

Disclosure officer means the official designated as disclosure officer in the Office of the General Counsel, PBGC.

* * * * *

PART 4901—EXAMINATION AND COPYING OF PENSION BENEFIT GUARANTY CORPORATION RECORDS

■ 3. The authority citation for Part 4901 continues to read as follows:

Authority: 5 U.S.C. 552, 29 U.S.C. 1302(b)(3).

§ 4901.2 [Amended]

■ 4. Section 4901.2 is amended by removing the definition of *Disclosure officer.*

§ 4901.11 [Amended]

■ 5. Section 4901.11 is amended by removing the words ''Communications and Public Affairs Department'' and adding in their place ''Office of the General Counsel''; and removing the number ''240'' and adding in its place the number ''11101''.

PART 4902—DISCLOSURE AND AMENDMENT OF RECORDS PERTAINING TO INDIVIDUALS UNDER THE PRIVACY ACT

■ 6. The authority citation for Part 4902 continues to read as follows:

Authority: 5 U.S.C. 552a.

■ 7. Section 4902.1 is revised to read as follows:

§ 4902.1 Purpose and Scope.

(a) *Procedures.* Sections 4902.3 through 4902.7 establish procedures under which—

(1) An individual may—

(i) Determine whether PBGC maintains any system of records that contains a record pertaining to the individual;

(ii) Obtain access to the individual's record upon request;

(iii) Make a request to amend the individual's record; and

(iv) Appeal a denial of a request to amend the individual's record; and

(2) PBGC will make an initial determination of a request to amend an individual's record.

(b) *Fees.* Section 4902.8 prescribes the fees for making copies of an individual's record.

(c) *Privacy Act provisions.* Section 4902.9 summarizes the Privacy Act (5 U.S.C. 552a) provisions for which PBGC claims an exemption for certain systems of records.

(d) *Exemptions.* Sections 4902.10 through 4902.11 set forth those systems of records that are exempted from certain disclosure and other provisions of the Privacy Act, and the reasons for the exemptions.

§ 4902.2 [Amended]

■ 8. Section 4902.2 is amended by removing the definition of *Disclosure officer.*

§ 4902.3 [Amended]

■ 9. Section 4902.3(a) is amended by removing the words ''on any working day in the Communications and Public Affairs Department, PBGC, 1200 K Street, NW., Suite 240, Washington, DC 20005–4026.'' and adding in their place ''on any working day. Current information on how to make a request, including the Disclosure Officer's

mailing address and location, can be obtained on PBGC's Web site, *http://www.pbgc.gov.''.*

■ 10. Section 4902.4(a) is amended by removing the words ''Communications and Public Affairs Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026'' and adding in their place ''PBGC''; and by adding a new sentence to the end of paragraph (a) to read as follows:

§ 4902.4 Disclosure of record to an individual.

(a) * * * Current information on where the records may be inspected and copied can be obtained on PBGC's Web site, *http://www.pbgc.gov.*

* * * * *

§ 4902.6 [Amended]

■ 11. Section 4902.6(a) is amended by removing the word ''Executive''.

§ 4902.7 [Amended]

■ 12. Section 4902.7 is amended:

■ a. In paragraph (a), by removing the words ''Deputy Executive Director'' and adding in their place ''Deputy Director for Operations''; and

■ b. In paragraph (b) by removing the words ''the Executive Director'' and adding in their place ''the Director'', and by removing the words ''Deputy Executive Director'' wherever they appear, and adding in their place ''Deputy Director for Operations''.

§§ 4902.9 and 4902.10 [Redesignated as §§ 4902.10 and 4902.12]

■ 13. Sections 4902.9 and 4902.10 are redesignated as §§ 4902.10 and 4902.12, respectively, and the newly redesignated § 4902.10 is revised to read as follows:

§ 4902.10 Specific exemption: Personnel Security Investigation Records.

(a) *Exemption.* Under the authority granted by 5 U.S.C. 552a(k)(5), PBGC hereby exempts the system of records entitled ''PBGC–12, Personnel Security Investigation Records—PBGC'' from the provisions of 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f), to the extent that the disclosure of such material would reveal the identity of a source who furnished information to PBGC under an express promise of confidentiality or, before September 27, 1975, under an implied promise of confidentiality.

(b) *Reasons for Exemption.* The reasons for asserting this exemption are to insure the gaining of information essential to determining suitability and fitness for PBGC employment or for work for PBGC as a contractor or as an employee of a contractor, access to information, and security clearances, to insure that full and candid disclosures are obtained in making such determinations, to prevent subjects of such determinations from thwarting the completion of such determinations, and to avoid revealing the identities of persons who furnish information to PBGC in confidence.

■ 14. New §§ 4902.9 and 4902.11 are added to read as follows:

§ 4902.9 Privacy Act provisions for which PBGC claims an exemption.

Subsections 552a(j) and (k) of title 5, U.S.C., authorize PBGC to exempt systems of records meeting certain criteria from various other subsections of section 552a. This section contains a summary of the Privacy Act provisions for which PBGC claims an exemption for the systems of records discussed in this part pursuant to, and to the extent permitted by, subsections 552a(j) and (k):

(a) Subsection (c)(3) of 5 U.S.C. 552a requires an agency to make available to the individual named in the records an accounting of each disclosure of records.

(b) Subsection (c)(4) of 5 U.S.C. 552a requires an agency to inform any person or other agency to which a record has been disclosed of any correction or notation of dispute the agency has made to the record in accordance with subsection (d) of the Privacy Act.

(c) Subsections (d)(1) through (4) of 5 U.S.C. 552a require an agency to permit an individual to gain access to records about the individual, to request amendment of such records, to request a review of an agency decision not to amend such records, and to provide a statement of disagreement about a disputed record to be filed and disclosed with the disputed record.

(d) Subsection (e)(1) of 5 U.S.C. 552a requires an agency to maintain in its records only such information about an individual that is relevant and necessary to accomplish a purpose required by statute or executive order of the President.

(e) Subsection (e)(2) of 5 U.S.C. 552a requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under federal programs.

(f) Subsection (e)(3) of 5 U.S.C. 552a requires an agency to inform each person whom it asks to supply information of the authority under which the information is sought, whether disclosure is mandatory or voluntary, the principal purpose(s) for which the information will be used, the routine uses that may be made of the information, and the effects of not providing the information.

(g) Subsection (e)(4)(G) and (H) of 5 U.S.C. 552a requires an agency to publish a **Federal Register** notice of its procedures whereby an individual can be notified upon request whether the system of records contains information about the individual, how to gain access to any record about the individual contained in the system, and how to contest its content.

(h) Subsection (e)(5) of 5 U.S.C. 552a requires an agency to maintain its records with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to ensure fairness to the individual in making any determination about the individual.

(i) Subsection (e)(8) of 5 U.S.C. 552a requires an agency to make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record.

(j) Subsection (f) of 5 U.S.C. 552a requires an agency to establish procedures whereby an individual can be notified upon request if any system of records named by the individual contains a record pertaining to the individual, obtain access to the record, and request amendment.

(k) Subsection (g) of 5 U.S.C. 552a provides for civil remedies if an agency fails to comply with the access and amendment provisions of subsections (d)(1) and (d)(3), and with other provisions of the Privacy Act, or any rule promulgated thereunder, in such a way as to have an adverse effect on an individual.

§ 4902.11 Specific exemptions: Office of Inspector General Investigative File System.

(a) *Criminal Law Enforcement.* (1) *Exemption.* Under the authority granted by 5 U.S.C. 552a(j)(2), PBGC hereby exempts the system of records entitled ''PBGC–17, Office of Inspector General Investigative File System—PBGC'' from the provisions of 5 U.S.C. 552a (c)(3), (c)(4), (d)(1) through (4), (e)(1) through (3), (e)(4)(G) and (H), (e)(5), (e)(8), (f), and (g) because the system contains information pertaining to the enforcement of criminal laws.

(2) *Reasons for exemption.* The reasons for asserting this exemption are:

(i) Disclosure to the individual named in the record pursuant to subsections (c)(3), (c)(4), or (d)(1) through (4) could seriously impede or compromise the investigation by alerting the target(s),

subjecting a potential witness or witnesses to intimidation or improper influence, and leading to destruction of evidence.

(ii) Application of subsection (e)(1) is impractical because the relevance of specific information might be established only after considerable analysis and as the investigation progresses. Effective law enforcement requires the Office of Inspector General to keep information that may not be relevant to a specific Office of Inspector General investigation, but which may provide leads for appropriate law enforcement and to establish patterns of activity that might relate to the jurisdiction of the Office of Inspector General and/or other agencies.

(iii) Application of subsection (e)(2) would be counterproductive to performance of a criminal investigation because it would alert the individual to the existence of an investigation.

(iv) Application of subsection (e)(3) could discourage the free flow of information in a criminal law enforcement inquiry.

(v) The requirements of subsections (e)(4)(G) and (H), and (f) do not apply because this system is exempt from the provisions of subsection (d). Nevertheless, PBGC has published notice of its notification, access, and contest procedures because access is appropriate in some cases.

(vi) Although the Office of Inspector General endeavors to maintain accurate records, application of subsection (e)(5) is impractical because maintaining only those records that are accurate, relevant, timely, and complete and that assure fairness in determination is contrary to established investigative techniques. Information that may initially appear inaccurate, irrelevant, untimely, or incomplete may, when collated and analyzed with other available information, become more pertinent as an investigation progresses.

(vii) Application of subsection (e)(8) could prematurely reveal an ongoing criminal investigation to the subject of the investigation.

(viii) The provisions of subsection (g) do not apply to this system if an exemption otherwise applies.

(b) *Other Law Enforcement.* (1) *Exemption.* Under the authority granted by 5 U.S.C. 552a(k)(2), PBGC hereby exempts the system of records entitled ''PBGC–17, Office of Inspector General Investigative File System—PBGC'' from the provisions of 5 U.S.C. 552a(c)(3), (d)(1) through (4), (e)(1), (e)(4)(G) and (H), and (f) for the same reasons as stated in paragraph (a)(2) of this section, that is, because the system contains investigatory material compiled for law enforcement purposes other than material within the scope of subsection 552a(j)(2).

(2) *Reasons for exemption.* The reasons for asserting this exemption are because the disclosure and other requirements of the Privacy Act could substantially compromise the efficacy and integrity of the Office of Inspector General operations. Disclosure could invade the privacy of other individuals and disclose their identity when they were expressly promised confidentiality. Disclosure could interfere with the integrity of information which would otherwise be subject to privileges (see, e.g., 5 U.S.C. 552(b)(5)), and which could interfere with other important law enforcement concerns (see, e.g., 5 U.S.C. 552(b)(7)).

(c) *Federal Civilian or Contract Employment.* (1) Exemption. Under the authority granted by 5 U.S.C. 552a(k)(5), PBGC hereby exempts the system of records entitled ''PBGC–17, Office of Inspector General Investigative File System—PBGC'' from the provisions of 5 U.S.C. 552a(c)(3), (d)(1) through (4), (e)(1), (e)(4)(G) and (H), and (f) because the system contains investigatory material compiled for the purpose of determining eligibility or qualifications for federal civilian or contract employment.

(2) *Reason for exemption.* The reason for asserting this exemption is to protect from disclosure the identity of a confidential source when an express promise of confidentiality has been given to obtain information from sources who would otherwise be unwilling to provide necessary information.

Issued in Washington, DC, this 1st day of June 2009.

Vincent K. Snowbarger,

Acting Director, Pension Benefit Guaranty Corporation.

[FR Doc. E9–13323 Filed 6–5–09; 8:45 am]

BILLING CODE 7709–01–P

Proposed Rules

Federal Register
Vol. 74, No. 108
Monday, June 8, 2009

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.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2009–0296; FRL–8914–3]

Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from organic solvent cleaning and degreasing operations. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by July 8, 2009.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2009–0296, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions.
2. *E-mail: steckel.andrew@epa.gov.*
3. *Mail or Deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *http://www.regulations.gov* or e-mail. *http://www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: The index to the docket for this action is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available in either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Nicole Law, EPA Region IX, (415) 947–4126, *Law.Nicole@epa.gov.*

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

Table of Contents

I. The State's Submittal
A. What Rules Did the State Submit?
B. Are There Other Versions of These Rules?
C. What Is the Purpose of the Rule Revisions?
II. EPA's Evaluation and Action
A. How Is EPA Evaluating the Rules?
B. Do the Rules Meet the Evaluation Criteria?
C. EPA Recommendations To Further Improve the Rules
D. Public Comment and Final Action
III. Statutory and Executive Order Reviews

I. The State's Submittal

A. What Rules Did the State Submit?

Table 1 lists the rules addressed by this proposal with the dates that they were adopted by the local air agency and submitted by the California Air Resources Board.

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
SJVUAPCD	4662	Organic Solvent Degreasing Operations	09/20/07	03/07/08
SJVUAPCD	4663	Organic Solvent Cleaning, Storage, and Disposal	09/20/07	03/07/08

On April 17, 2008, EPA determined that these rule submittals met the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are There Other Versions of These Rules?

We approved versions of Rules 4662 and 4663 into the SIP on July 27, 2002. The San Joaquin Valley Unified Air Pollution Control District adopted revisions to the SIP-approved rules on September 20, 2007 and CARB submitted these to us on March 7, 2008. CARB has not submitted any other revisions to these rules since 2002.

C. What Is the Purpose of the Rule Revisions?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control VOC emissions. The revised rules limit VOC emissions from organic solvent degreasing operations, organic solvent cleaning and from the storage and disposal of solvents and waste solvent materials. The most significant changes in the rules are reductions of the VOC limits on organic solvents to 25 grams of VOC per liter solvent. EPA's technical support documents (TSDs) have more information about these rules.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (*see* section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source in nonattainment areas (*see* sections 182(a)(2) and (b)(2)), and must not relax existing requirements (*see* sections 110(l) and 193). The San Joaquin Valley Unified Air Pollution Control District regulates an ozone nonattainment area for both the 1-hr and the 8-hr ozone standard (*see* 40 CFR part 81), so Rules 4662 and 4663 must fulfill RACT.

Guidance and policy documents that we use to evaluate enforceability and RACT requirements consistently include the following:

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.
2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (the Bluebook).
3. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).
4. ''Control of Volatile Organic Emissions from Solvent Metal Cleaning,'' EPA–450/2–77–022, November 1977.
5. ''Control Techniques Guidelines for Industrial Cleaning Solvents,'' EPA–453/R–06–001, September 2006.
6. ''Organic Solvent Cleaning and Degreasing Operations,'' CARB, July 18, 1991.
7. ''Reasonably Available Control Technology (RACT) Demonstration for Ozone State Implementation Plans (SIP)'' SJVAPCD, April 16, 2009.
8. ''State Implementation Plans, General Preamble for the Implementation of Title I of the Clean Air Amendments of 1990,'' 57 FR 13498 (April 16, 1992).
9. ''Preamble, Final Rule to Implement the 8-hour Ozone National Ambient Air Quality Standard'' 70 FR 71612 (November 29, 2005).
10. Letter from William T. Hartnett to Regional Air Division Directors, ''RACT Qs & As—Reasonable Available Control Technology (RACT) Questions and Answers,'' May 18, 2006.

B. Do the Rules Meet the Evaluation Criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. The TSDs have more information on our evaluation.

C. EPA Recommendations To Further Improve the Rules

The TSDs describe additional rule revisions that do not affect EPA's current action but are recommended for the next time the local agency modifies the Rules.

D. Public Comment and Final Action

Because EPA believes the submitted rules fulfill all relevant requirements, we are proposing to fully approve them as described in section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate these rules into the Federally enforceable SIP.

III. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- 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 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, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: May 21, 2009.

Jane Diamond,

Acting Regional Administrator, Region IX.

[FR Doc. E9–13331 Filed 6–5–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 93

[EPA–HQ–OAR–2008–0540; FRL–8914–5]

RIN 2060–AP29

Transportation Conformity Rule $PM_{2.5}$ and PM_{10} Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Extension of Public Comment Period.

SUMMARY: EPA is announcing the extension of the public comment period on the proposed rule, ''Transportation Conformity Rule $PM_{2.5}$ and PM_{10} Amendments.'' This proposed rule was published May 15, 2009 in the **Federal Register** (74 FR 23024), and written comments on the proposed rule were to be submitted by June 15, 2009. EPA also stated in the proposal that the comment period would be extended if a public

hearing was requested by a certain date. On May 26, 2009, EPA received such a request to hold a public hearing for this proposed rule, and the public hearing was held on June 4, 2009 at the EPA in Ann Arbor, Michigan. As a result, EPA is notifying the public again that the deadline to submit public comments on the proposal is now June 29, 2009.

DATES: Comments on the May 15, 2009 (74 FR 23024) proposed rule must be received on or before June 29, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2008–0540, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-docket@epa.gov.*
- *Fax:* (202) 566–9744.
- *Mail:* Air Docket, Environmental Protection Agency, *Mailcode:* 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–OAR–2008–0540. Please include a total of two copies.
- *Hand Delivery:* Air Docket, Environmental Protection Agency, *Mailcode:* EPA West Building, EPA Docket Center (Room 3334), 1301 Constitution Ave., NW., Washington, DC, Attention Docket ID No. EPA–HQ–OAR–2008–0540. Please include two copies. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2008–0540. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.* For additional instructions on submitting comments, go to the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air and Radiation Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744 and the telephone number for the Air and Radiation Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Laura Berry, State Measures and Conformity Group, Transportation and Regional Programs Division, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105, *e-mail address: berry.laura@epa.gov, telephone number:* (734) 214–4858, *fax number:* (734) 214–4052; or Patty Klavon, State Measures and Conformity Group, Transportation and Regional Programs Division, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105, *e-mail address: klavon.patty@epa.gov, telephone number:* (734) 214–4476, *fax number:* (734) 214–4052.

SUPPLEMENTARY INFORMATION:

A. What Should I Consider as I Prepare My Comments for EPA?

1. Submitting CBI

Do not submit this information to EPA through *http://www.regulations.gov* or e-mail. 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 submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree, suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

3. Docket Copying Costs

You may be required to pay a reasonable fee for copying docket materials.

B. How Do I Get Copies of This Proposed Rule and Other Documents?

1. Docket

EPA has established an official public docket for this action under Docket ID No. EPA–HQ–OAR–2008–0540. You can get a paper copy of this **Federal Register** document, as well as the documents specifically referenced in this action, any public comments received, and other information related to this action at the official public docket. See the **ADDRESSES** section for its location.

2. Electronic Access

You may access this **Federal Register** document electronically through EPA's Transportation Conformity Web site at *http://www.epa.gov/otaq/stateresources/transconf/index.htm.* You may also access this document electronically under the **Federal Register** listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the official public docket is available through *http://www.regulations.gov.* You may use *http://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number.

Certain types of information will not be placed in the electronic public docket. Information claimed as CBI and other information for which disclosure is restricted by statute is not available for public viewing in the electronic public docket. EPA's policy is that copyrighted material will not be placed in the electronic public docket but will be available only in printed, paper form in the official public docket.

To the extent feasible, publicly available docket materials will be made available in the electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in the electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in the **ADDRESSES** section. EPA intends to provide electronic access in the future to all of the publicly available docket materials through the electronic public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to the electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in the electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in the electronic public docket along with a brief description written by the docket staff.

For additional information about the electronic public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Dated: June 3, 2009.

Margo T. Oge,

Director, Office of Transportation and Air Quality.

[FR Doc. E9–13332 Filed 6–5–09; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 74, No. 108

Monday, June 8, 2009

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

Forest Service

Okanogan and Wenatchee National Forests Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of field trip.

SUMMARY: The Eastern Washington Cascades and Yakima Provincial Advisory Committees will meet for a field trip on Wednesday, June 17 at the Tonasket Ranger District office, 1 West Winesap, Tonasket, WA. This field trip will begin at 9 a.m. and continue until 3 p.m. Provincial Advisory committee members will be visiting a grazing allotment near Wauconda, WA. This field tour is open to Provincial Advisory Committee members.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Robin DeMario, Public Affairs Specialist, Okanogan-Wenatchee National Forest, 215 Melody Lane, Wenatchee, Washington 98801, (509) 664–9200.

Dated: June 1, 2009.

Roland Giller,

Okanogan-Wenatchee National Forest, Public Affairs Group Leader.

[FR Doc. E9–13294 Filed 6–5–09; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Quarterly Services Survey.

Form Number(s): QSS–1(A), QSS–1(E), QSS–2(A), QSS–2(E), QSS–3(A), QSS–3(E), QSS–4(A), QSS–4(E), QSS–5(A), QSS–5(E), QSS–1A–PEO, QSS–1E–PEO.

OMB Control Number: 0607–0907.

Type of Request: Revision of a currently approved collection.

Burden Hours: 13,500.

Number of Respondents: 15,400.

Average Hours per Response: 13 minutes.

Needs and Uses: The U.S. Census Bureau requests an extension with revision of the current OMB approval of the Quarterly Services Survey (QSS). The QSS currently canvasses and collects data from employer businesses in select service industries. These industries include truck transportation; couriers and messengers; warehousing and storage; information; credit intermediation and related activities; securities, commodity contracts, and other financial investments and related activities; rental and leasing; professional, scientific and technical services; administrative and support and waste management and remediation services; healthcare and social assistance; arts, entertainment, and recreation; and other services (except public administration). The QSS provides the most current reliable measures of total operating revenue and percentage of revenue by class of customer (for selected industries) on a quarterly basis. In addition, the QSS provides the only current quarterly measure of total operating expenses from tax-exempt firms in industries that have a large not-for-profit component.

The QSS is a major source for the development of quarterly Gross Domestic Product (GDP) and an indicator of short-term economic change. The total operating revenue estimates produced from the QSS provide current trends of economic service industry activity in the United States from service providers with paid employees. In addition to revenue, we also collect total operating expenses from tax-exempt firms in industries that have a large not-for-profit component. Operating expenses provide a better measure of the economic activity of these firms. Expense estimates produced by the QSS, in addition to inpatient days and discharges for the hospital industry, are used by the Centers for Medicare and Medicaid Services (CMS) to project and study hospital regulation, Medicare payment adequacy, and other related projects.

Beginning in June 2010, the U.S. Census Bureau will expand the QSS to include coverage of utilities; air transportation; water transportation; transit and ground passenger transportation; pipeline transportation; scenic and sightseeing transportation; support activities for transportation; monetary authorities-central bank; insurance carriers and related services; real estate; lessors of nonfinancial intangible assets (except copyrighted works); and educational services.

In the year 2010, for select questionnaires, we may replace select questions with industry specific variable content. This questionnaire adjustment was proposed by the Bureau of Economic Analysis (BEA). According to the BEA, an implementation of such proposed changes would assist them in making better use of the QSS data and lead to improved estimates of Personal Consumption Expenditures (PCE) services.

The BEA is the primary Federal user of data collected in the QSS. The BEA utilizes these timely data to make improvements to the national accounts for service industries. In the National Income and Product Accounts (NIPA), the quarterly data allow more accurate estimates of both PCE and private fixed investment. For example, recently published revisions to the quarterly NIPA estimates resulted from the incorporation of new source data from the QSS. Revenue data from the QSS are also used to produce estimates of gross output by industry that allow BEA to produce a much earlier version of the gross domestic product by industry estimates.

Estimates produced from the QSS are used by the BEA as a component of quarterly GDP estimates. The estimates also provide the Federal Reserve Board (FRB) and Council of Economic Advisors (CEA) with timely information on current economic performance. All estimates collected from this survey are used extensively by various government agencies and departments on economic policy decisions; private businesses; trade organizations; professional associations; academia; and other various business research and analysis organizations.

Affected Public: Business or other for-profit; not-for-profit institutions.

Frequency: Quarterly.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., Section 182.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer, either by fax (202–395–7245) or e-mail (*bharrisk@omb.eop.gov*).

Dated: June 2, 2009.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9–13197 Filed 6–5–09; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: School Enrollment Supplement to the Current Population Survey.

Form Number(s): None.

OMB Control Number: 0607–0464.

Type of Request: Extension of a currently approved collection.

Burden Hours: 2,750.

Number of Respondents: 55,000.

Average Hours per Response: 3 minutes.

Needs and Uses: The purpose of this request for review is to obtain continued clearance for the supplemental inquiry concerning school enrollment to be conducted in conjunction with the October Current Population Survey (CPS). The School Enrollment Supplement is jointly sponsored by the U.S. Census Bureau, the Bureau of Labor Statistics (BLS), and the National Center for Education Statistics (NCES). A number of questions in this supplement may appear in the American Community Survey (ACS) and in other demographic surveys. However, this supplement's comprehensive set of questions does not duplicate any other single information collection, and ensures the historical continuity of a data series that spans over 4 decades.

This data series provides basic information on enrollment status of various segments of the population necessary as background for policy formulation and implementation. The CPS October supplement is the only annual source of data on public/private elementary and secondary school enrollment and characteristics of private school students and their families, which are used for tracking historical trends and for policy planning and support. The basic school enrollment questions have been collected annually in the CPS for 50 years. Consequently, this supplement is the only source of historical data—at the national level—on the age distribution and family characteristics of college students, and on the demographic characteristics of preprimary school enrollment. As part of the Federal government's efforts to collect data and provide timely information to local governments for policymaking decisions, this supplement provides national trends in enrollment and progress in school. Discontinuance of these data would mean not complying with the Federal government's obligation to provide data to decision makers on current educational issues and would disrupt a data series that has been in existence for 50 years.

Affected Public: Individuals or households.

Frequency: Annually.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, section 182 and Title 29, United States Code, sections 1–9.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer, either by fax (202–395–7245) or e-mail (*bharrisk@omb.eop.gov*).

Dated: June 2, 2009.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9–13221 Filed 6–5–09; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–878]

Continuation of Antidumping Duty Order on Saccharin from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 8, 2009.

SUMMARY: As a result of the determinations by the Department of Commerce (''Department'') and the International Trade Commission (''ITC'') that revocation of the antidumping duty order on saccharin from the People's Republic of China (''PRC'') would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing a notice of continuation of the antidumping duty order.

FOR FURTHER INFORMATION CONTACT: Andrea Staebler Berton, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4037.

SUPPLEMENTARY INFORMATION: On June 5, 2008, the Department published the notice of initiation of the sunset review of the antidumping duty order on saccharin from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). *See Initiation of Five-year (''Sunset'') Review*, 73 FR 31974 (June 5, 2008).

As a result of its review, the Department determined that revocation of the antidumping duty order on saccharin from the PRC would likely lead to a continuation or recurrence of dumping and, therefore, notified the ITC of the magnitude of the margins likely to prevail should the order be revoked. *See Saccharin from the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 73 FR 59604 (October 9, 2008).

On June 1, 2009, the ITC determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty order on saccharin from the PRC would

likely lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable future. *See Saccharin from China*, 74 FR 26257 (June 1, 2009), and USITC Publication 4077 (May 2009).

Scope of the Order

The product covered by this antidumping duty order is saccharin. Saccharin is defined as a non–nutritive sweetener used in beverages and foods, personal care products such as toothpaste, table top sweeteners, and animal feeds. It is also used in metalworking fluids. There are four primary chemical compositions of saccharin: (1) Sodium saccharin (American Chemical Society Chemical Abstract Service (''CAS'') Registry 128–44–9); (2) calcium saccharin (CAS Registry 6485–34–3); (3) acid (or insoluble) saccharin (CAS Registry 81–07–2); and (4) research grade saccharin. Most of the U.S.-produced and imported grades of saccharin from the PRC are sodium and calcium saccharin, which are available in granular, powder, spray–dried powder, and liquid forms. The merchandise subject to this order is currently classifiable under subheading 2925.11.00 of the *Harmonized Tariff Schedule of the United States* (''HTSUS'') and includes all types of saccharin imported under this HTSUS subheading, including research and specialized grades. Although the HTSUS subheading is provided for convenience and customs purposes, the Department's written description of the scope of this order remains dispositive.

Continuation of the Order

As a result of these determinations by the Department and the ITC that revocation of the antidumping duty order would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping order on saccharin from the PRC. United States Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of the continuation of the order will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next five-year review of the order not later than 30 days prior to the fifth anniversary of the effective date of continuation.

This five-year (sunset) review and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act.

Dated: June 3, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

[FR Doc. E9–13487 Filed 6–5–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–832]

Pure Magnesium from the People's Republic of China: Preliminary Results of 2007–2008 Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to requests from interested parties, the Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on pure magnesium from the People's Republic of China (''PRC''), covering the period May 1, 2007, through April 30, 2008. This administrative review covers one exporter of the subject merchandise.

We have preliminarily determined that the respondent in this administrative review made sales in the United States at prices below normal value during the period of review (''POR''). If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on entries of subject merchandise during the POR for which the importer–specific assessment rates are above *de minimis*.

We invite interested parties to comment on these preliminary results. Parties who submit comments are requested to submit with each argument a summary of the argument. We intend to issue the final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act'').

EFFECTIVE DATE: June 8, 2009.

FOR FURTHER INFORMATION CONTACT: Katharine Huang or Eugene Degnan, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1271 and (202) 482–0414, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 12, 1995, the Department published in the **Federal Register** the antidumping duty order on pure magnesium from the PRC.[1] On May 5, 2008, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on pure magnesium from the PRC for the period May 1, 2007, through April 30, 2008.[2] On May 29, 2008, in accordance with 19 CFR 351.213(b)(2), Tianjin Magnesium International, Co. Ltd. (''TMI''), a foreign exporter of the subject merchandise requested that the Department review its sales of subject merchandise. On May 30, 2008, US Magnesium LLC (''Petitioner'') also requested that the Department conduct an administrative review of TMI's exports of subject merchandise. On July 1, 2008, the Department initiated an administrative review of the order on pure magnesium from the PRC for the POR with respect to TMI. On September 11, 2008, the Department issued its antidumping duty questionnaire to TMI.[3] On October 14, 2008, TMI submitted its Section A questionnaire response (''TMI's AQR''). On October 29, 2008, TMI submitted its Section C and D questionnaire responses (''TMI's CQR'' and ''TMI's DQR,'' respectively). On November 12, 2008, Petitioner submitted comments on TMI's AQR, CQR, and DQR. On February 23, 2009, Petitioner submitted comments concerning TMI's request for by–product offsets. On March 16, 2009, the Department issued the first supplemental questionnaire to TMI. On April 6, 2009, TMI submitted its response to the Section A and Section C supplemental questionnaire (''TMI's 1st SAQR'' and ''TMI's 1st SCQR,'' respectively). On April 8, 2009, TMI submitted its response to the Section D supplemental questionnaire (''TMI's 1st SDQR''). On May 4, 2009, the Department issued the second supplemental questionnaire to TMI and the Department received a response on May 11, 2009 (''TMI's 2nd SQR'').

On February 9, 2009, the Department extended the time period for completion

---

[1] *See Notice of Antidumping Duty Orders: Pure Magnesium From the People's Republic of China, the Russian Federation and Ukraine*, 60 FR 25691 (May 12, 1995).

[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity to Request Administrative Review*, 73 FR 24532 (May 5, 2008).

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 73 FR 37409 (July 1, 2008).

of the preliminary results of this review by 120 days until May 31, 2009.[4]

On February 6, 2009, the Department requested that the Office of Policy provide a list of surrogate countries for this review.[5] On February 20, 2009, the Office of Policy issued its list of surrogate countries.[6] On February 20, 2009, the Department issued a letter to interested parties seeking comments on surrogate country selection and surrogate values. On March 6, 2009, Petitioner and TMI submitted comments on surrogate country selection (''Petitioner's Surrogate Country Selection Letter'' and ''TMI's Surrogate Country Selection Letter,'' respectively). On March 20, 2009, Petitioner and TMI submitted surrogate value comments (''Petitioner's 3/20/2009 Surrogate Value Comments'' and ''TMI's 3/20/2009 Surrogate Value Comments,'' respectively). On March 30, 2009, TMI and Petitioner submitted additional and rebuttal surrogate value information (''TMI's 3/30/2009 Surrogate Value Comments'' and ''Petitioner's 3/30/2009 Surrogate Value Comments,'' respectively). On April 9, 2009, TMI submitted additional rebuttal surrogate value information (''TMI's 4/9/2009 Surrogate Value Comments'').

On April 13, 2009, the Department found that Exhibit 5 of the Petitioner's 3/20/2009 Surrogate Value Comments did not conform to the requirements of 19 CFR 351.301(c)(3) of the Department's regulations, which provides for the submission of only ''publicly available information to value factors.''[7] Accordingly, the Department rejected this submission.[8] The Department allowed Petitioner to re–submit its surrogate value comments as a public document without business proprietary information, and with no substantive changes to the document other than to delete or make public the bracketed information contained in Exhibit 5 of Petitioner's 3/20/2009 Surrogate Value Submission. On April 16, 2009, Petitioner re–submitted its surrogate value comments and made public the previously bracketed information contained in Exhibit 5 (''Petitioner's 4/16/2009 Surrogate Value Comments''). On May 8, 2009, Petitioner submitted comments concerning the upcoming preliminary results (''Petitioner's 5/8/2009 Comments Concerning the Preliminary Results''). On May 13, 2009, TMI submitted a letter, requesting the Department reject Petitioner's 5/8/2009 Comments Concerning the Preliminary Results.[9]

Period of Review

The POR is May 1, 2007, through April 30, 2008.

Scope of Order

Merchandise covered by this order is pure magnesium regardless of chemistry, form or size, unless expressly excluded from the scope of this order. Pure magnesium is a metal or alloy containing by weight primarily the element magnesium and produced by decomposing raw materials into magnesium metal. Pure primary magnesium is used primarily as a chemical in the aluminum alloying, desulfurization, and chemical reduction industries. In addition, pure magnesium is used as an input in producing magnesium alloy. Pure magnesium encompasses products (including, but not limited to, butt ends, stubs, crowns and crystals) with the following primary magnesium contents:

(1) Products that contain at least 99.95% primary magnesium, by weight (generally referred to as ''ultra pure'' magnesium);

(2) Products that contain less than 99.95% but not less than 99.8% primary magnesium, by weight (generally referred to as ''pure'' magnesium); and

(3) Products that contain 50% or greater, but less than 99.8% primary magnesium, by weight, and that do not conform to ASTM specifications for alloy magnesium (generally referred to as ''off–specification pure'' magnesium).

''Off–specification pure'' magnesium is pure primary magnesium containing magnesium scrap, secondary magnesium, oxidized magnesium or impurities (whether or not intentionally added) that cause the primary magnesium content to fall below 99.8% by weight. It generally does not contain, individually or in combination, 1.5% or more, by weight, of the following alloying elements: aluminum, manganese, zinc, silicon, thorium, zirconium and rare earths.

Excluded from the scope of this order are alloy primary magnesium (that meets specifications for alloy magnesium), primary magnesium anodes, granular primary magnesium (including turnings, chips and powder) having a maximum physical dimension (*i.e.*, length or diameter) of one inch or less, secondary magnesium (which has pure primary magnesium content of less than 50% by weight), and remelted magnesium whose pure primary magnesium content is less than 50% by weight.

Pure magnesium products covered by this order are currently classifiable under Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings 8104.11.00, 8104.19.00, 8104.20.00, 8104.30.00, 8104.90.00, 3824.90.11, 3824.90.19 and 9817.00.90. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope is dispositive.

Non–Market Economy Country Status

The Department has treated the PRC as a non–market economy (''NME'') country in all past antidumping duty investigations and administrative reviews and continues to do so in this case.[10] The Department has previously examined the PRC's market economy status and determined that NME status should continue for the PRC.[11] In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority.[12] No interested party to this proceeding has contested such treatment. Accordingly, we calculated normal value (''NV'') in accordance with section 773(c) of the Act, which applies to NME countries.

[4] *See Pure Magnesium from the People's Republic of China: Extension of Time for the Preliminary Results of the Antidumping Duty Administrative Review*, 74 FR 6365 (February 9, 2009).

[5] *See* Memorandum ''Request for Surrogate-Country Selection: 2007-2008 Administrative Review of the Antidumping Duty Order on Pure Magnesium from the People's Republic of China'' (February 6, 2009)

[6] *See* Memorandum ''Request for Surrogate-Country Selection: 2007-2008 Administrative Review of the Antidumping Duty Order on Pure Magnesium from the People's Republic of China'' (February 20, 2009) (''Surrogate Country List'').

[7] *See* Letter from Robert Bolling to All Interested Parties, Re: Antidumping Duty Administrative Review of Pure Magnesium from the People's Republic of China, dated February 20, 2009.

[8] *See* Letter from Wendy J. Frankel, Office Director, to Stephen Jones, Petitioner's counsel, Re: Rejection of Petitioner's 3/20/2009 Surrogate Value Submission, dated April 13, 2009.

[9] On May 28, 2009, the Department placed a memorandum on the file, stating the reasons that the Department would not reject Petitioner's 5/8/2009 Comments Concerning the Preliminary Results as TMI requested.

[10] *See 771(18)(C) of the Act; see, e.g., Pure Magnesium from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 73 FR 76336 (December 16, 2008); and *Frontseating Service Valves From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances*, 74 FR 10886 (March 13, 2009).

[11] *See* Memorandum from the Office of Policy to David M. Spooner, Assistant Secretary for Import Administration, regarding the People's Republic of China Status as a Non-Market Economy, dated May 15, 2006. This document is available online at: http://ia.ita.doc.gov/download/prc-nme-status/prc-nme-status-memo.pdf.

[12] *See* section 771(18)(c)(i) of the Act.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV on the NME producer's factors of production (''FOPs''). The Act further instructs that valuation of the FOPs shall be based on the best available information in a surrogate market economy country or countries considered to be appropriate by the Department.[13] When valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market economy countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.[14] Further, the Department normally values all FOPs in a single surrogate country.[15] The sources of surrogate value are discussed under the ''Normal Value'' section below and in the Factor Valuation Memorandum, which is on file in the Central Records Unit, Room 1117 of the main Department building.[16]

In examining which country to select as its primary surrogate country for this proceeding, the Department first determined that India, Indonesia, the Philippines, Columbia, Thailand, and Peru are countries comparable to the PRC in terms of economic development.[17] In Petitioner's Surrogate Country Selection Letter, Petitioner contends that the Department should continue to select India as the surrogate country for this administrative review, as it has in previous proceedings. Also, Petitioner maintains that to the best of its knowledge, there are no magnesium producers currently operating in any of the six countries identified in the Surrogate Country Memorandum. Petitioner states that Southern Magnesium & Chemicals Ltd. (''Southern Magnesium''), which is located in India, has either downsized or ceased its magnesium production operations.[18] Petitioner argues, however, that India is a significant producer of aluminum and the Department has ''routinely determined that aluminum is a product comparable to magnesium production.''[19] Petitioner states that India has five major producers of aluminum.[20] Additionally, Petitioner contends that the Department determined that zinc is the only other merchandise that the Department had found to be comparable to magnesium,[21] and India is a significant producer of zinc.[22] Finally, Petitioner contends that India is the best available surrogate country for this proceeding because India is known to have complete, up–to-date, and reliable publicly available information for all raw material factors of production. Petitioner states that India is the only potential surrogate country that can be a source for surrogate financial ratios because India is a significant producer of aluminum and zinc.

In TMI's Surrogate Country Selection Letter, TMI contends that India is the most appropriate surrogate country for the PRC in this review. TMI reiterates the reasons that the Department used in its determination to use India as the appropriate surrogate country in the 06–07 administrative review of pure magnesium from the PRC: (1) India is at a level of economic development comparable to the PRC; (2) India is a significant producer of comparable merchandise; and (3) the Department has reliable data to use from India. Both Petitioner and TMI submitted Indian sourced data to value FOPs.

After evaluating interested parties' comments, the Department has determined that India is the appropriate surrogate country to use in this review in accordance with section 773(c)(4) of the Act. The Department based its decision on the following facts: (1) India is at a level of economic development comparable to that of the PRC; (2) India is a significant producer of comparable merchandise, i.e., aluminum and zinc; and (3) India provides the best opportunity to use quality, publicly available data to value the FOPs. On the record of this review, we have usable surrogate financial data from India, but no such surrogate financial data from any other potential surrogate country. Additionally, all the data submitted by both Petitioner and TMI for our consideration as potential surrogate values are sourced from India.

Therefore, because India best represents the experience of producers of comparable merchandise operating in a surrogate country, we have selected India as the surrogate country and, accordingly, have calculated NV using Indian prices to value TMI' FOPs, when available and appropriate. We have obtained and relied upon publicly available information wherever possible.

In accordance with 19 CFR 351.301(c)(3)(ii), interested parties may submit publicly available information to value the FOPs within 20 days after the date of publication of the preliminary determination.[23]

Separate Rates

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of subject merchandise in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* governmental control over export activities. The Department analyzes each entity exporting the subject merchandise under a test arising from the *Notice of Final Determination of Sales at Less Than Fair value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (''*Sparklers*''),

[13] *See* section 773(c)(1) of the Act.

[14] *See* section 773(c)(4) of the Act.

[15] *See* 19 CFR 351.308(c)(2).

[16] *See* Memorandum to the File, Preliminary Results of the 2007-2008 Administrative Review of the Antidumping Duty Order on Pure Magnesium from the People's Republic of China: Surrogate Value Memorandum, dated June 1, 2009 (''Factor Valuation Memorandum'').

[17] *See* Memorandum to Robert Bolling, Program Manager, From Ron Lorentzen, Director, Office of Policy, Re: Administrative Review of Pure Magnesium from the People's Republic of China: Request for a List of Surrogate Countries, dated December 20, 2008 (''Surrogate Country Memorandum'').

[18] *See* 2002 Annual Report of Southern Magnesium, contained in Petitioner's Surrogate Country Selection Letter, at 3 and Exhibit 2.

[19] *See* Petitioner's Surrogate Country Selection Letter, at 3, citing the Final Results of 2006-2007 Administrative Review of Pure Magnesium from the People's Republic of China (December 16, 2008), and accompanying Issue and Decision Memorandum at Comment 6.D.

[20] *See* Petitioner's Surrogate Country Selection Letter, at 5, citing The Mineral Industry of India - 2006, at Table 2, U.S. Geological Survey (''USGS''), contained in Exhibit 3; also, citing USGS Minerals Yearbook, Zinc-2006 at Table 16, contained in Exhibit 4.

[21] *See* Petitioner's Surrogate Country Selection Letter, at 5, citing Pure Magnesium From the Russian Federation, 66 FR 49347 (September 27, 2001), at Comment 1.

[22] *See* Petitioner's Surrogate Country Selection, at 5, citing USGS Minerals Yearbook, Zinc - 2006, at Table 16, contained in Exhibit 4.

[23] In accordance with 19 CFR 351.301(c)(1), for the final determination of this review, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record. The Department generally cannot accept the submission of additional, previously absent-from-the-record alternative SV information pursuant to 19CFR 351.301(c)(1). *See Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part*, 72 FR 58809 (October 17, 2007), and accompanying Issues and Decision Memorandum at Comment 2.

as further developed in *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (''*Silicon Carbide*''). However, if the Department determines that a company is wholly foreign-owned or located in a market economy, then a separate rate analysis is not necessary to determine whether it is independent from government control.

Separate Rate Recipients

TMI is the only respondent in this administrative review. TMI reported that it is a wholly Chinese–owned company. Therefore, the Department must analyze whether it can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

a. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies.[24]

The evidence provided by TMI supports a preliminary finding of *de jure* absence of government control based on the following: (1) an absence of restrictive stipulations associated with its business and export licenses; (2) there are applicable legislative enactments decentralizing control of companies; and (3) and there are formal measures by the government decentralizing control of companies.[25]

b. Absence of De Facto Control

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) whether the export prices are set by or are subject to the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.[26] The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

The evidence provided by TMI supports a preliminary finding of de facto absence of government control based on the following: (1) the absence of evidence that the export prices are set by or are subject to the approval of a government agency;[27] (2) the respondent has authority to negotiate and sign contracts and other agreements;[28] (3) the respondent has autonomy from the government in making decisions regarding the selection of management[29] and (4) the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.[30]

Therefore, the evidence placed on the record of this review by TMI demonstrates an absence of *de jure* and *de facto* government control with respect to TMI's exports of the merchandise under review, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. Accordingly, we have determined that TMI has demonstrated its eligibility for a separate rate.

Fair Value Comparisons

To determine whether sales of pure magnesium to the United States by TMI were made at less than fair value (''LTFV''), we compared Export Price (''EP'') to NV, as described in the ''Export Price'' and ''Normal Value'' sections of this notice.

Export Price

In accordance with section 772(a) of the Act, EP is the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under section 772(c) of the Act. In accordance with section 772(a) of the Act, we have used EP for TMI's U.S. sales because the subject merchandise was sold directly to the unaffiliated customers in the United States prior to importation and because Constructed Export Price was not otherwise warranted.

We have based the EP on delivered prices to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, we have made deductions from the starting price for movement expenses, including expenses for foreign inland freight from the plant to the port of exportation, domestic brokerage and handling, international freight, marine insurance, brokerage and handling expenses incurred in the U.S. and the U.S. customs duty. No other adjustments to EP were reported or claimed.[31]

Normal Value

Section 773(c)(1) of the Act provides that, the Department shall determine NV using an FOP methodology if the the merchandise is exported from an NME country and the Department finds available information does not permit the calculation of NV using home–market prices, third–country prices, or constructed value under section 773(a) of the Act. When determining NV in an NME context, the Department will base NV on FOPs because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies. The Department's questionnaire requires that TMI provide information regarding the weighted–average FOPs across all of the company's plants that produce the subject merchandise, not just the FOPs from a single plant. This methodology ensures that the Department's calculations are as accurate as possible.[32]

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to find an appropriate SV to value FOPs, but when a producer sources an input from a market economy and pays for it in market–economy currency, the Department may value the factor using the actual price paid for the input.[33] TMI reported that

[24] *See Sparklers*, 56 FR at 20589.

[25] *See Sparklers*, 56 FR at 20589.

[26] *See Silicon Carbide*, 59 FR at 22586-87; *see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

[27] *See* TMI's AQR, at 7; see also the contract and the purchase order between TMI and a U.S. Customer contained in TMI's AQR at Exhibit A-6.

[28] *See* the purchase contracts between TMI and its producers contained in TMI's 1st SAQR at Exhibit SA-6A and Exhibit SA-6B.

[29] *See* TMI's AQR at 8-9.

[30] *See* TMI's AQR at 8-9.

[31] *See* Memorandum ''Analysis for the Preliminary Results of Pure Magnesium from the People's Republic of China: Tianjin Magnesium International, Co. Ltd.'' (''TMI's Analysis Memorandum''), dated June 1, 2009.

[32] *See, e.g., Final Determination of Sales at Less Than Fair Value and Critical Circumstances: Certain Malleable Iron Pipe Fittings From the People's Republic of China*, 68 FR 61395 (October 28, 2003), and accompanying Issue and Decision Memorandum at Comment 19.

[33] *See* 19 CFR 351.408(c)(1); *see also Shakeproof Assembly Components Div of Ill v. United States*,

Continued

it did not purchase any inputs from market economy suppliers for the production of the subject merchandise.[34]

We calculated NV based on FOPs in accordance with section 773(c)(3) and (4) of the Act and 19 CFR 351.408(c). The FOPs include but are not limited to: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. The Department used FOPs reported by TMI for materials, energy, labor, by–products, and packing.

TMI stated that two by–products, *i.e.*, cement clinker and waste magnesium, are generated from the production process of subject merchandise,[35] and provided the Department with the receipts of sales of cement clinker and waste magnesium generated during the POR.[36] Therefore, for these preliminary results, we have granted TMI's requested by–product offsets for cement clinker and waste magnesium in our NV calculation.[37]

Factor Valuations

In accordance with section 773(c) of the Act, the Department calculated NV based on FOPs reported by TMI for the POR. To calculate NV, the Department multiplied the reported per–unit factor consumption quantities by publicly available Indian surrogate values. In selecting the surrogate values, the Department considered the quality, specificity, and contemporaneity of the data. The Department adjusted input prices by including freight costs to make them delivered prices, as appropriate. Specifically, the Department added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory of production. This adjustment is in accordance with the decision of the U.S. Court of Appeals for the Federal Circuit in *Sigma Corp. v. United States*, 117 F.3d 1401, 1407–08 (Fed. Cir.1997). A detailed description of all surrogate values used to value TMI's reported FOPs can be found in the Factor Valuation Memorandum.

The Department calculated surrogate values for the majority of reported FOPs purchased from NME sources using the contemporaneous, weighted–average unit import value derived from the *Monthly Statistics of the Foreign Trade of India*, as published by the Directorate General of Commercial Intelligence and Statistics of the Ministry of Commerce and Industry, Government of India in the World Trade Atlas, available at http://www.gtis.com/wta.htm (''WTA Indian Import Statistics'').[38] WTA Indian Import Statistics were reported in rupees and are contemporaneous with the POR to calculate surrogate values for TMI's material inputs. In selecting the best available information for valuing FOPs in accordance with section 773(c)(1) of the Act, the Department's practice is to select, to the extent practicable, surrogate values which are non–export average values, most contemporaneous with the POI, product–specific, and tax–exclusive.[39]

In those instances where the Department could not obtain publicly available information contemporaneous with the POR with which to value FOPs, the Department adjusted the surrogate values using the Indian Wholesale Price Index (''WPI''), as published in the International Financial Statistics of the *International Monetary Fund*.[40]

Furthermore, with regard to Indian import–based surrogate values, we have disregarded prices that we have reason to believe or suspect may be subsidized, such as those from Indonesia, South Korea, and Thailand. We have found in other proceedings that these countries maintain broadly available, non–industry-specific export subsidies and, therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized.[41] We are also guided by the statute's legislative history that explains that it is not necessary to conduct a formal investigation to ensure that such prices are not subsidized.[42] Rather, the Department was instructed by Congress to base its decision on information that is available to it at the time it is making its determination. Therefore, we have not used prices from these countries in calculating the Indian import–based surrogate values.

The Department used WTA Indian Import Statistics to calculate surrogate values for raw materials, including ferrosilicon, fluorite, sulphur powder and sulfuric acid and for packing materials, including steel bands and plastic bags. For dolomite, in reviewing the record evidence of this proceeding, we continue to find, as we did in the previous segments of this proceeding, that it is reasonable to conclude that WTA data represent prices of imported dolomite in the high–end value–added product range while the dolomite used to produce subject merchandise is the high–bulk, low–value commodity.[43] Therefore, we have determined to value dolomite using the purchase price paid by Tata Sponge Iron Ltd. (''Tata Sponge Iron''), an Indian producer of sponge iron, as recorded in Tata Sponge Iron's 2007–2008 financial statements. We have determined not to use the purchase price paid by Nova Iron & Steel Limited (''Nova Iron & Steel''), another Indian producer of iron and steel, because the company is registered as a Sick Industrial Company, as recorded in Nova Iron & Steel's 2007–2008 financial statements.[44] Finally, we have determined not to use the purchase price from Tata Steel because this represents an average price for both dolomite and limestone.[45]

We have determined to value TMI's by–product of clinker using the purchase price paid by Madras Cements Ltd. (''Madras Cements''), an Indian producer of cement. Our examination of the record evidence, including the description of TMI's production process, leads us to preliminarily conclude that the by–product clinker, like the dolomite from which it is generated, is also a high–bulk, low–value commodity, and that WTA Indian Import Statistics would similarly be inappropriate to value this material.

268 F. 3d 1376, 1382-1383 (Fed. Cir. 2001) (affirming the Department's use of market-based prices to value certain FOPs).

[34] *See* TMI's DQR at D-5.

[35] *Id.* at D-13.

[36] *See* TMI 1st SDQR at Exhibit 5.

[37] For further discussion of TMI's by-product offsets, see TMI's Analysis Memorandum and Factor Valuation Memorandum.

[38] *See* Factor Valuation Memorandum at attachment 1.

[39] *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004).

[40] *See* Factor Valuation Memorandum at Attachment 2.

[41] *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Notice of Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review*, 70 FR 54007, 54011 (September 13, 2005), unchanged in *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of the First Administrative Review*, 71 FR 14170 (March 21, 2006); and *China National Machinery Import & Export Corporation v. United States*, 293 F. Supp. 2d 1334 (CIT 2003), affirmed 104 Fed. Appx. 183 (Fed. Cir. 2004).

[42] *See* H.R. Rep. No. 100-576 at 590 (1988).

[43] *See Pure Magnesium from the People's Republic of China: Final Results of 2006-2007Antidumping Duty Administrative Review*, 73 FR 76336 (December 16, 2008), and accompanying Issues and Decision Memorandum at Comment 1.

[44] *See* 16th Annual Report 2007-2008, Nova Iron & Steel Limited, at 14 contained in TMI's Initial Surrogate Value Comments at Exhibit SV-2D.

[45] *See* 101st Annual Report 2007-2008, Tata Steel Limited, at 183 contained in Petitioner's 1st Rebuttal Surrogate Value Comments at Exhibit SV-1.

Accordingly, and to be consistent with the valuation of dolomite, we have valued this by–product using the purchase price paid by Madras Cements.

We valued TMI's by–product of waste magnesium using WTA Indian Import Statistics, in part, because, unlike the case for dolomite and clinker, there is no domestic purchase price for waste magnesium on the record. We will continue to analyze TMI's waste magnesium to determine the best information available to use for the final results.

We valued flux No.2, which consists of magnesium chloride, potassium chloride and sodium chloride, using data from *Chemical Weekly*. We consider both *Chemical Weekly* and WTA Indian Import Statistics reliable sources that the Department has used in past cases to value chemical component inputs. In the instant case, however, we have determined that *Chemical Weekly* is the best information available for valuing magnesium chloride because the quantity of the total imports of magnesium chloride in the WTA Indian Import Statistics is very small and thus does not appear to represent commercial quantities.

We valued brokerage and handling using a simple average of the brokerage and handling costs that were reported in public submissions that were filed in three antidumping duty cases. Specifically, we averaged the public brokerage and handling expenses reported by Navneet Publications (India) Ltd. in the 2007–2008 administrative review of certain lined paper products from India, Essar Steel Limited in the 2006–2007 antidumping duty administrative review of hot–rolled carbon steel flat products from India, and Himalya International Ltd. in the 2005–2006 administrative review of certain preserved mushrooms from India. We inflated the brokerage and handling rate using the appropriate WPI inflator.

For direct labor, indirect labor, and packing labor, consistent with 19 CFR 351.408(c)(3), the Department used the PRC regression–based wage rate as reported on Import Administration's website.[46] Because this regression–based wage rate does not separate the labor rates into different skill levels or types of labor, the Department has applied the same wage rate to all skill levels and types of labor reported by TMI. If the NME wage rates are updated by the Department prior to issuance of the final determination, we will use the updated wage rate in the final results.

We valued electricity using price data for small, medium, and large industries, as published

by the Central Electricity Authority of the Government of India in its publication titled ''Electricity Tariff & Duty and Average Rates of Electricity Supply in India,'' dated July 2006. These electricity rates represent actual country–wide, publicly–available information on tax–exclusive electricity rates charged to industries in India.

We valued truck freight expenses using an Indian per–unit average rate calculated from data on the following Web site http://www.infobanc.com/logistics/logtruck.htm. The logistics section of this Web site contains inland freight truck rates between many large Indian cities. Since this rate is not contemporaneous with the POR we deflated the rate using WPI.

Since TMI reports using non–coking coal with useful heat value (''UHV'') of 5500 kcal/kg,[47] we valued steam coal using Teri Energy Data Directory & Yearbook (''TERI Data''), which categorizes non–coking coal into different grades from A to G based on UHV and the selling prices for categories B and C of non–coking coal reported by Coal India Ltd., which we retrieved from its website on May 22, 2009.

We valued marine insurance using the price quote retrieved from http://www.rjgconsultants.com/163.html, a market–economy provider of marine insurance.

Section 351.408(c)(4) of the Department's regulations directs the Department to value overhead, general and administrative expenses (''SG&A''), and profit using non–proprietary information gathered from producers of identical or comparable merchandise in the surrogate country. In this proceeding, Petitioners and TMI placed the 2007–2008 financial statements on the record from nine Indian companies: Madras Aluminum Company Ltd. (''Malco''), Hindalco Industries Limited (''Hindalco''), National Aluminium Company Limited (''Nalco''), Hindustan Zinc Limited (''Hindustan Zinc''), Binani Zinc (''Binani Zinc''), Sudal Industries Ltd. (''Sudal''), Centure Extrusions Ltd. (''Century''), Bhoruka Aluminum (''Bhoruka'') and Man Aluminum Ltd. (''Man''). However, we have preliminarily determined that none of financial statements on the record is usable for various reasons, as explained in detail below. Therefore, as the best available information, we have used Malco's 2006–2007 audited financial statements, which we used in the 2006–2007 administrative review.[48]

We have determined not to use the 2007–2008 financial statements of Malco because they are incomplete.[49] We have determined not to rely on the 2007–2008 financial statements of Hindalco because they indicate that Hindalco received ''Export and Other Incentives'' *i.e.*, Duty Free Import Entitlement Scheme (''EPCG Scheme'') under ''Operating Revenues.''[50] Similarly, Nalco's financial statements indicate that Nalco received ''Export Incentives'' under Duty Entitlement Pass Book (''DEPB Premium'') as ''Other Income.''[51] Also, we have determined not to use the 2007–2008 financial statements of Binani Zinc because it too made use of the DEPB Premium.[52] India's EPCG Scheme and DEPB Premiums each have been found by the Department to provide a countervailable subsidy.[53] Consistent with the Department practice, we do not use financial statements of a company we have reason to believe or suspect may have received subsidies, because financial ratios derived from that company's financial statements do not constitute the best available information with which to value financial ratios.[54]

[46] *See* Expected Wages of Selected NME Countries, revised in May 2008, available at http://ia.ita.doc.gov/wages. The source of these wage-rate data is the Yearbook of Labour Statistics 2006, ILO (Geneva: 2006), Chapter 5B: Wages in Manufacturing. The years of the reported wage rates are from 2004 and 2005.

[47] *See* TMI's DQR at D-12.

[48] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Pure Magnesium in Granular Form from the People's Republic of China*, 66 FR 49345 (September 27, 2001) (''Granular Magnesium'').

[49] The 2007-2008 financial statements of Malco are missing schedules for ''turnover'' and ''other income.'' The Department does not use incomplete financial statements. *See Frontseating Service Valves From the People's Republic of China*, 74 FR 10886 (March 13, 2009), and accompanying Issues and Decision Memorandum at Comment 1.

[50] *See* Annual Report 2007-2008, Hindalco, at 94 contained in Petitioner's 4/16/2009 Surrogate Value Comments at Exhibit 8.

[51] *See* 27th Annual Report 2007-2008, Nalco, at 71 contained in Petitioner's 4/16/2009 Surrogate Value Comments at Exhibit 9.

[52] *See* Annual Report 2007-2008, Binani Zic, at 24 contained in Petitioner's 4/16/2009 Surrogate Value Comments at Exhibit 12.

[53] *See, e.g., Certain Iron-Metal Castings From India: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review*, 64 FR 61592 (November 12, 1999); unchanged in *Certain Iron-Metal Castings From India: Final Results of Countervailing Duty Administrative Review* 65 FR 31515 (May 18, 2000); *see also http://ia.ita.doc.gov/esel/eselframes.html and Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Lined Paper Products from India*, 71 FR 45034 (August 8, 2006), and accompanying Issues and Decision Memorandum at ''Benchmarks for Loans and Discount Rate.''

[54] *See Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results And Rescission, In Part, of 2004/2005 Antidumping Duty Administrative and New Shipper Reviews*, 72

Continued

Additionally, we have determined not to use the 2007–2008 financial statements of Hindustan Zinc because Hindustan Zinc has four captive mines, which indicates it is an integrated producer and so would not accurately reflect TMI's production. Furthermore, we have determined not use the 2007–2008 financial statements of Sudal, Century, Bhoruka and Man because we find that the production of these companies is not comparable to TMI's. Record evidence shows that these companies are secondary aluminum extrusion manufacturers that buy aluminum metals from primary producers or alternatively import metal and manufacture aluminum extrusions. In contrast, TMI's producers are producers of primary pure magnesium that extract magnesium from dolomite rocks through an electrolytic process. Century reports that it is an important secondary aluminum extrusion manufacturer in India. Sudal, Bhoruka and Man utilize aluminum ingots, aluminum billets and/or aluminum scrap and aluminum alloy as raw materials.[55] Since TMI's producers and these secondary aluminum extrusion manufacturers start their production processes at different stages, we have determined not to include the financial data from these secondary aluminum extrusion manufacturers in our surrogate financial ratio calculation.

For a complete listing of all the inputs and a detailed discussion about our surrogate value selections, *see* Factor Valuation Memorandum.

Currency Conversion

The Department made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect as certified by the Federal Reserve Bank on the dates of the U.S. sales.

Verification

As provided in section 782(i)(3) of the Act, we intend to verify the information from TMI upon which we will rely in making our final determination.

Weighted–Average Dumping Margins

The preliminary weighted–average dumping margin is as follows:

PURE MAGNESIUM FROM THE PRC

Exporter	Weighted–Average Margin (percentage)
Tianjin Magnesium International Co. Ltd.	9.1%

Disclosure

The Department will disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of publication of these preliminary results.[56] If a hearing is requested, the Department will announce the hearing schedule at a later date. Interested parties may submit case briefs and/or written comments no later than seven days after the release of the verification report issued in this review.[57] Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than five days after the time limit for filing the case briefs.[58] Further, we request that parties submitting written comments provide the Department with an additional copy of those comments on diskette or CD ROM. The Department intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in any comments, and at a hearing, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

The Department will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. For assessment purposes, we calculated importer- or customer specific assessment rates for merchandise subject to this review.[59] We calculated an *ad valorem* rate for each importer or customer by dividing the total dumping margins for reviewed sales to that party by the total entered values associated with those transactions. For duty–assessment rates calculated on this basis, we will direct CBP to assess the resulting *ad valorem* rate against the entered customs values for the subject merchandise. Where appropriate, we calculated a per–unit rate for each importer or customer by dividing the total dumping margins for reviewed sales to that party by the total sales quantity associated with those transactions. For duty–assessment rates calculated on this basis, we will direct CBP to assess the resulting per–unit rate against the entered quantity of the subject merchandise. Where an importer- (or customer-) specific assessment rate is *de minimis (i.e.*, less than 0.50 percent) in accordance with the requirement of 19 CFR 351.106)c)(2), the Department will instruct CBP to assess that importer's (or customer's) entries of subject merchandise without regard to antidumping duties. We intend to instruct CBP to liquidate entries containing subject merchandise exported by the PRC–wide entity at the PRC–wide rate we determine in the final results of this review. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) for TMI, which has a separate rate, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or *de minimis*, zero cash deposit will be required); (2) for previously investigated or reviewed PRC and non–PRC exporters not listed above that received a separate rate in a prior segment of this proceeding the cash deposit rate will continue to be the exporter–specific rate; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC–wide rate of 108.26 percent; and (4) for all non–PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non–PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR

FR 19174 (April 17, 2007) (''*Crawfish from the PRC*''), and accompanying Issues and Decision Memorandum at Comment 1.

[55] *See* Annual Report 2007-2008, Century, at 16 contained in TMI's 3/20/2009 Surrogate Value Comments at Exhibit 13B. *See also* 29th Annual Report 2007-2008, Sudal, at 29 contained in TMI's 3/20/2009 Surrogate Value Comments at Exhibit 13A. *See also* 28th Annual Report 2007-2008, Bhoruka, at 35 contained in TMI's 3/20/2009 Surrogate Value Comments at Exhibit 13C. *See also* Annual Report 2007-2008, Man, at 30 contained in TMI's 3/20/2009 Surrogate Value Comments at Exhibit 13D.

[56] *See* 19 CFR 351.310(c).

[57] *See* 19 CFR 351.309(c)(ii).

[58] *See* 19 CFR 351.309(d).

[59] *See* 19 CFR, 351.212(b)(c).

351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.213.

Dated: June 1, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

[FR Doc. E9–13344 Filed 6–5–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–808]

Stainless Steel Plate in Coils from Belgium: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on stainless steel plate in coils (SSPC) from Belgium. For the period of review (POR) May 1, 2007, through April 30, 2008, we have preliminarily determined that U.S. sales have been made below normal value (NV). If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties based on the difference between the constructed export price (CEP) and NV. *See* ''Preliminary Results of Review'' section of this notice. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: June 8, 2009.

FOR FURTHER INFORMATION CONTACT: Joy Zhang or George McMahon, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482–1168 or (202) 482–1167, respectively.

Background

On May 5, 2008, the Department issued a notice of opportunity to request an administrative review of this order for the POR. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 73 FR 24532 (May 5, 2008). On May 30, 2008, the Department received a timely request for an administrative review of this antidumping duty order from Allegheny Ludlum Corporation, North American Stainless, Butler–Armco Independent Union, Zanesville Armco Independent Union, and the United Steelworkers of America, AFL–CIO/CLC (collectively, Petitioners). On June 2, 2008, the Department received a timely request for an administrative review from the respondent, Ugine & ALZ Belgium (U&A Belgium), respectively. On June 29, 2007, we published a notice initiating an administrative review of the antidumping duty order on SSPC from Belgium covering one respondent, U&A Belgium. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request for Revocation in Part and Deferral of Administrative Review*, 72 FR 35690 (June 29, 2007).

In the prior administrative review of this antidumping duty order, U&A Belgium reported that it is wholly owned by Arcelor S.A. and stated that Arcelor S.A. was in the process of merging with Mittal Steel, N.V. (Mittal) to form Arcelor Mittal S.A. *See Stainless Steel Plate in Coils from Belgium: Preliminary Results of Antidumping Duty Administrative Review*, 73 FR 32298 (June 6, 2008). In the instant review, U&A Belgium stated ''{t}he merger between AMS Belgium's former parent Arcelor S.A. and Mittal Steel N.V. was completed on November 13, 2007. Although this is midway through the review period, AMS Belgium has prepared its responses to the Department's questionnaires as if ArcelorMittal were fully consolidated for the entire reporting period.'' *See* U&A Belgium's Section A questionnaire response, dated September 18, 2008, at page 6, footnote 1. Due to the completion of the aforementioned merger and based on U&A Belgium's reporting of a consolidated questionnaire response, we have conducted a successor–in-interest analysis. Based upon our findings, we have changed our reference to this company from U&A Belgium to ArcelorMittal Stainless Belgium (AMS Belgium) hereafter. *See* the Department's memo to the File titled, ''Successor–in-Interest analysis for AMS Belgium,'' dated June 1, 2009 on file in the Central Records Unit (CRU), room 1117 of the main Department building.

On July 15, 2008, the Department issued an antidumping duty questionnaire to AMS Belgium. We received AMS Belgium's response to Section A of the Department's questionnaire on September 18, 2008, and Sections B–D on October 3, 2008. On December 8, 2008, the Department received comments from the Petitioners on the Sections A through C responses for AMS Belgium. After reviewing the Sections A through D responses from AMS Belgium, the Department issued supplemental questionnaires to AMS Belgium. The Department issued additional supplemental questions, after reviewing AMS Belgium's supplemental questionnaire responses. On January 21, 2009, the Department issued an extension of the deadline for the preliminary results of this antidumping duty administrative review from January 31, 2009, until June 1, 2009. *See Stainless Steel Plate in Coils From Belgium: Notice of Extension of Time Limit for Preliminary Results of Administrative Review*, 74 FR 3563 (January 21, 2009).

Scope of the Order

The product covered by this order is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat–rolled products, 254 mm or over in width and 4.75 mm[1] or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (*e.g.*, cold–rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this order are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or

[1] On May 11, 2007, the Department received a scope inquiry request from U&A Belgium regarding whether the scope of the orders on SSPC from Belgium excludes stainless steel products with an actual thickness less than 4.75mm, regardless of its nominal thickness. The Department conducted a scope inquiry applicable to all countries subject to the SSPC antidumping and countervailing duty orders. In the Department's scope ruling, dated December 3, 2008, the Department determined that SSPC with a nominal thickness of 4.75mm, but with an actual thickness less than 4.75mm, and within the dimensional tolerances for this thickness of plate, is included in the scope of the antidumping duty orders on SSPC from Belgium, Italy, South Africa, the Republic of Korea, and Taiwan and countervailing duty orders on SSPC from Belgium and South Africa. *See* Memorandum from Melissa G. Skinner to Stephen J. Claeys titled ''Stainless Steel Plate in Coils from Belgium: Final Scope Ruling,'' dated December 3, 2008.

otherwise descaled, (3) sheet and strip, and (4) flat bars.

The merchandise subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.06, 7219.12.00.21, 7219.12.00.26, 7219.12.00.51, 7219.12.00.56, 7219.12.00.66, 7219.12.00.71, 7219.12.00.81, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this order is dispositive.

Period of Review

The period of review is May 1, 2007, through April 30, 2008.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), we have verified information provided by AMS Belgium and ArcelorMittal Stainless International USA (AMSI USA), AMS Belgium's U.S. affiliated distributor, in the administrative review of the order on subject merchandise from Belgium using standard verification procedures, including the examination of relevant sales and cost information, financial records, and the selection and review of original documentation containing relevant information. Our verification results are outlined in the public version of our verification report, which is on file in the CRU.

Facts Available

Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties. Section 776(a) of the Act provides that the Department will apply ''facts otherwise available'' if, inter alia, necessary information is not available on the record or an interested party: 1) withholds information that has been requested by the Department; 2) fails to provide such information within the deadlines established, or in the form or manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; 3) significantly impedes a proceeding; or 4) provides such information, but the information cannot be verified.

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with the request for information. *See*, *e.g.*, *Certain Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review*, 62 FR 53808, 53819–20 (October 16, 1997); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold–Rolled Carbon Steel Flat Products from Sweden*, 67 FR 47522, 47523 (July 19, 2002).

A. Certain Selling Expense[2]

During the sales verification, the Department found that AMS Belgium did not include a certain selling expense in its calculation of indirect selling expenses. The Department inquired about this omission and the company officials explained that this certain selling expense was reported in its general and administrative expenses (G&A). *See* the Department's Sales Verification Report, dated June 1, 2009, at constructed export price (CEP) Verification Exhibit (CEP VE) 16. However, further examination demonstrated that this certain selling expense was not included in the reported G&A. *See* AMS Belgium's Section D Questionnaire Response, dated October 3, 2008, at Exhibit 19. Based upon further inquiry during the sales verification, company officials indicated that AMS Belgium's accounts identify provisions only for a certain selling expense and not an actual (realized) amount of this certain selling expense. *See* CEP VE 16. However, this response contradicted information obtained during the cost verification of AMS Belgium. Specifically, the Department's cost verification team examined G&A (which they calculated based on 2007 COPA financial statements) and noted an amount which was excluded from G&A and listed as a selling expense. *See* the Department's Cost Verification Report, dated June 1, 2009, at Exhibit 16. This amount includes a net actual (realized) amount of this certain selling expense. Due the proprietary nature of this discussion and data, *see* the Sales and Cost Verification Reports, dated June 1, 2009 (Sales Verification Report, Cost Verification Report), for additional details. *Id*.

Due to the fact that AMS Belgium could not accurately identify where in its response it reported the certain selling expense in question, the Department was unable to verify the certain selling expense. Furthermore, AMS Belgium did not establish whether the specific amount of the certain selling expense in question was attributable to either the home market or the U.S. market. AMS Belgium's contradictory statements regarding the certain selling expense undermined AMS Belgium's reporting of indirect selling expenses. As a result, we find that it is appropriate to resort to facts otherwise available to account for the unreported information. *See Notice of Final Results of Antidumping Duty Administrative Review, Rescission of Administrative Review in Part, and Final Determination to Not Revoke Order in Part: Canned Pineapple Fruit from Thailand*, 68 FR 65247 (November 19, 2003), and accompanying Issues and Decision Memorandum at Comment 20b. As facts available, we are applying the certain selling expense obtained from the cost verification and attributing these expenses to home market indirect selling expenses. *See* Cost Verification Exhibit (CVE) 16.

B. Other Transportation Expenses

During the sales verification, AMS Belgium reported a minor correction regarding the U.S. sales other transportation expenses data field (USOTHTR1U). AMS Belgium reported a minor correction that affects only those U.S. sales transactions where USOTHTR1U was based on an average calculation of other transportation expenses. *See* Sales Verification Report at Exhibit VE–1. However, during the CEP sales verification, the Department found that AMS Belgium maintained the actual broker invoices available to calculate the actual transportation expense for the aforementioned U.S. sales observations, rather than apply an average. AMS Belgium provided a recalculation of the other transportation expenses for the U.S. sales in question based on the actual broker invoices. However, the Department found that the recalculated amounts provided by AMS Belgium were in error. Specifically, we

[2] Due to the proprietary nature of this particular expense, *see* the Department's discussion of this expense in the proprietary version of the Department's Sales Calculation Memorandum, dated June 1, 2009.

calculated USOTHTR1U using the two broker's invoices provided at verification and found that the actual per–unit prices for this field differed from the revised amount reported by AMS Belgium. *See* CEP Verification Exhibit 19. Therefore, the Department is rejecting AMS Belgium's minor correction number 6, as reported at the sales verification, and its calculation value of other transportation expenses provided in CEP VE 19.

Due to the fact that AMS Belgium was unable to support the amounts calculated and reported for the other transportation expense data field, the Department was unable to verify the other transportation expense for the certain transactions that were reported based on an average. The Department obtained broker invoices during the CEP sales verification that we used to recalculate other transportation expenses for two U.S. sales transactions. As facts available, the Department is using one of the other transportation expenses obtained at the CEP sales verification to replace the other transportation expense reported by AMS Belgium for the transactions that were originally reported by AMS Belgium based on an average amount.

C. Adverse Inferences

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with the request for information. *See*, *e.g.*, *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025–26 (September 13, 2005); *see also Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794–96 (August 30, 2002). The Statement of Administrative Action provides guidance by explaining that adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103–316, Vol. 1, at 870 (1994). Furthermore, ''affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.'' *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27340 (May 19, 1997); *see also Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382 (Fed. Cir. 2003) (*Nippon*).

1. Certain Selling Expense

AMS Belgium had several opportunities to correct the data on the record regarding its exclusion of the certain selling expense from its indirect selling expenses. These include the original questionnaire, subsequent supplemental sales and cost questionnaires, and ultimately during the sales and cost verifications. However, AMS Belgium did not request clarification regarding how it should report its certain selling expense during this administrative review. Instead, AMS Belgium provided contradictory statements to the Department that first indicated that the certain selling expense was included in its reported selling expenses, then subsequently indicated that it was reported in G&A.

AMS Belgium maintained complete information regarding its certain selling expense in its financial information system. *See* CEP VE 16. However, it failed to properly report the certain selling amount in question, despite statements made to the contrary.

AMS Belgium's exclusion of its certain selling expense from its reported indirect selling expenses is deficient because: 1) AMS Belgium had the necessary information within its control and it did not properly report this information; and 2) it failed to put forth its maximum effort as required by the Department's questionnaire. As a result, we preliminarily find that AMS Belgium failed to cooperate to the best of its ability. Therefore, for the preliminary results we are using facts available with an adverse inference to determine indirect selling expenses. Specifically, with respect to indirect selling expenses, we are attributing the entire certain selling expense amount in question to the calculation of home market indirect selling expenses. As a practice, the Department will normally include these certain selling expenses as part of the respondent's indirect selling expenses. This adjustment is considered adverse to AMS Belgium's interests for reasons that are proprietary in nature. *See* the Sales Calculation Memorandum for additional details. For more detail concerning the AFA rates, *see* Memorandum from Joy Zhang, to The File, through James Terpstra titled ''Calculation Memorandum for ArcelorMittal Stainless Belgium (AMS Belgium) for the Preliminary Results of the Seventh Administrative Review of Stainless Steel Plate in Coils (SSPC) from Belgium,'' dated June 1, 2009 (Sales Calculation Memorandum) on file in the CRU.

2. Other Transportation Expenses

AMS Belgium had several opportunities to correct the data on record regarding its USOTHTR1U expenses reported in both its questionnaire responses and minor corrections obtained at the sales verification. AMS Belgium's USOTHTR1U, for the transactions that were based on an average calculation, were not supported by the corresponding broker's invoices. Furthermore, neither AMS Belgium nor AMSI USA were able to explain to the Department or provide documentation that would clarify why this expense for these transactions was found to be in error.

AMS Belgium's inaccurate reporting for USOTHTR1U is deficient because: 1) AMS Belgium had the necessary information within its control and it did not properly report this information; and 2) it failed to put forth its maximum effort as required by the Department's questionnaire. As a result, we preliminarily find that AMS Belgium failed to cooperate to the best of its ability. Therefore, for the preliminary results we are using facts available with an adverse inference to determine other transportation expenses for certain transactions. Specifically, the Department is applying adverse facts available (AFA) and will use the highest reported expense for this field obtained during the constructed export price (CEP) verification for the U.S. sales transactions where the other transportation expense data field was based on an average calculation. *See* Sales Calculation Memorandum.

Analysis

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondent that are covered by the description contained in the ''Scope of the Order'' section above and were sold in the home market during the POR, to be the foreign like product for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product on the basis of the characteristics listed in Appendix V of the initial antidumping questionnaire we provided to AMS Belgium. *See* the Department's Antidumping Duty Questionnaire issued to AMS Belgium, dated July 15, 2008, on the record in the CRU, Room 1117 of the Main Commerce Building.

Normal Value Comparisons

To determine whether sales of subject merchandise to the United States were made at less than normal value, we compared CEP to NV, as described in the ''Constructed Export Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted–average prices for NV and compared these to individual U.S. transaction prices.

Home Market Viability

In accordance with section 773(a)(1)(C) of the Act, to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared AMS Belgium's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise. Pursuant to section 773(a)(1)(B) and 19 CFR 351.404(b), because AMS Belgium's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable. Moreover, there is no evidence on the record supporting a particular market situation in the exporting company's country that would not permit a proper comparison of home market and U.S. prices.

Constructed Export Price

In accordance with section 772(b) of the Act, CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter.

As stated at 19 CFR 351.401(i), the Department will use the respondent's invoice date as the date of sale unless another date better reflects the date upon which the exporter or producer establishes the essential terms of sale. AMS Belgium reported the invoice date as the date of sale for both the U.S. market and the home market because the date of invoice reflects the date on which the material terms of sale were finalized.

For purposes of this review, AMS Belgium classified all of its export sales of SSPC to the United States as CEP sales. During the POR, AMS Belgium made sales in the United States through its U.S. affiliate, AMSI USA, which then resold the merchandise to unaffiliated customers in the United States. The Department calculated CEP based on packed prices to customers in the United States. We made deductions from the starting price, net of discounts, for movement expenses (foreign and U.S. movement, U.S. customs duty and brokerage, and post–sale warehousing) in accordance with section 772(c)(2) of the Act and 19 CFR 351.401(e). In addition, because AMS Belgium reported CEP sales, in accordance with section 772(d)(1) of the Act, we deducted from the starting price, credit expenses, warranty expenses, and indirect selling expenses, including inventory carrying costs, incurred in the United States and Belgium and associated with economic activities in the United States.

Normal Value

In accordance with section 773(a)(1)(B)(i) of the Act, we have based NV on the price at which the foreign like product was first sold for consumption in the home market, in the usual commercial quantities and in the ordinary course of trade. In addition, because the NV level of trade (LOT) is at a more advanced stage of distribution than the CEP LOT, and available data provide no appropriate basis to determine an LOT adjustment between NV and CEP, we made a CEP offset pursuant to section 773(a)(7)(B) of the Act. *See* ''Level of Trade'' section, below.

We used sales to affiliated customers only where we determined such sales were made at arm's–length prices (*i.e.*, at prices comparable to the prices at which the respondent sold identical merchandise to unaffiliated customers).

Arm's–Length Test

Sales to affiliated customers in the home market not made at arm's length were excluded from our analysis. To test whether these sales were made at arm's length, we compared the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts, and packing. In accordance with the Department's current practice, if the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise identical or most similar to that sold to the affiliated party, we consider the sales to be at arm's–length prices. *See* 19 CFR 351.403(c). Conversely, where the affiliated party did not pass the arm's–length test, all sales to that affiliated party have been excluded from the NV calculation. *See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002).

Calculation of COP

The Department disregarded sales below the cost of production (COP) in the last completed review. *See Stainless Steel Plate in Coils From Belgium: Final Results of Antidumping Duty Administrative Review*, 73 FR 75398 (December 11, 2008). We therefore have reasonable grounds to believe or suspect, pursuant to section 773(b)(2)(A)(ii) of the Act, that sales of the foreign like product under consideration for the determination of NV in this review may have been made at prices below COP. Thus, pursuant to section 773(b)(1) of the Act, we examined whether AMS Belgium's sales in the home market were made at prices below the COP.

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the cost of materials and fabrication for the foreign like product, plus an amount for selling, general and administrative expenses (SG&A), interest expenses, and home market packing costs. We relied on the COP data submitted by AMS Belgium, except for the following:

1. Consistent with recent cases,[3] we have evaluated whether a shorter cost averaging period methodology is appropriate in this case due to the occurrence of significant cost changes through the POR, rather than our established practice of using annual cost averages. In determining whether distortions result from significant cost fluctuations in the context of our antidumping duty calculations, we considered record evidence using two primary factors: (1) whether the cost changes throughout the POR were significant; and 2) whether sales during the shorter averaging period could be reasonably linked with the COP or CV during the same averaging period. Record evidence indicates that AMS Belgium experienced significant changes in the total cost of manufacturing (COM) during the POR, and that these changes are primarily attributable to the price volatility for

[3] *See Stainless Steel Sheet and Strip in Coils from Mexico; Final Results of Antidumping Duty Administrative Review*, 74 FR 6365 (February 9, 2009), and accompanying Issues and Decision Memorandum at Comment 5; *Stainless Steel Plate in Coils from Belgium; Final Results of Antidumping Duty Administrative Review*, 73 FR 75398, 75399 (December 11, 2008), and accompanying Issues and Decision Memorandum at Comment 4; and *Certain Steel Concrete Reinforcing Bars from Turkey; Final Results of Antidumping Duty Administrative Review and Determination To Revoke in Part*, 73 FR 66218 (November 7, 2008), and accompanying Issues and Decision Memorandum at Comment 2.

nickel, a major input consumed in the production of the merchandise under consideration. AMS Belgium also showed that through its alloy surcharge levied on sales during the POR there is a reasonable level of correlation between falling direct material costs and final sale prices. Thus, we preliminarily find that the change in COM for AMS Belgium is significant enough to warrant a departure from our standard annual costing approach and that these significant cost changes would create distortions in the Department's sales–below-cost test as well as the overall margin calculation in the preliminary results. Therefore, for the preliminary results, we have applied an alternative cost calculation method where we used indexed quarterly average direct material costs and annual weighted–average conversion costs in the COP and CV calculations. *See* Memorandum from Ernest Gziryan, Senior Accountant, to Neal Halper, Director, Office of Accounting, titled ''Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results ArcelorMittal Stainless Belgium,'' dated June 1, 2009. (*Cost Calculation Memorandum*)

2. We increased the reported per–unit COM to include an unreconciled difference which represents additional production costs per books that were not reflected in the reported costs.

3. We revised AMS Belgium's reported general and administrative (G&A) expenses to include certain items recorded on the company's 2007 financial statements that relate to the general operations of the company.

We compared the weighted–average model–specific COPs to home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. In determining whether to disregard home market sales made at prices below the COP, we examined whether such sales were made (1) within an extended period of time in substantial quantities, and (2) at prices which did not permit recovery of all costs within a reasonable period of time in the normal course of trade, in accordance with sections 773(b)(1)(A) and (B) of the Act. On a product–specific basis, we compared the COP to home market prices, less any movement charges, discounts, and direct and indirect selling expenses.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of the respondent's sales of a given product were at prices which represent less than the COP, we did not disregard any below–cost sales of that product because the below–cost sales were not made in substantial quantities within an extended period of time. Where 20 percent or more of the respondent's sales of a given product were at prices which represented less than the COP, we determined that they were made in substantial quantities within an extended period of time, in accordance with section 773(b)(2)(C) of the Act. Because we compared prices to POR–average costs, we also determined that the below–cost prices did not permit the recovery of costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act. Therefore, we disregarded the below–cost sales and used the remaining sales as the basis for NV, in accordance with section 773(b)(1) of the Act.

CEP to NV Comparison

For those sales at prices above COP, we based NV on home market prices to affiliated (when made at prices determined to be at arm's length) or unaffiliated parties, in accordance with 19 CFR 351.403. Home market starting prices were based on packed prices to affiliated or unaffiliated purchasers in the home market, net of discounts. We made adjustments, where applicable, for packing and movement expenses, in accordance with sections 773(a)(6)(A) and (B) of the Act. We also made adjustments for differences in costs attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act. For comparison to CEP, we deducted home market direct selling expenses pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(c).

Section 773(a)(4) of the Act provides that where NV cannot be based on comparison–market sales, NV may be based on constructed value (CV). Accordingly, for those products for which we could not determine the NV based on comparison–market sales, either because there were no useable sales of a comparable product or all sales of the comparable products failed the COP test, we based NV on CV.

Section 773(e) of the Act provides that CV shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts for SG&A and interest expenses, profit, and U.S. packing costs. We calculated the cost of materials and fabrication based on the methodology described in the ''Cost of Production Analysis'' section, above. We based SG&A and interest expenses and profit on the actual amounts incurred and realized by respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the home market, in accordance with section 773(e)(2)(A) of the Act.

We made adjustments to CV for differences in circumstances of sale in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. For comparisons to CEP, we made circumstance–of-sale adjustments by deducting comparison market direct selling expenses from CV. *See* 19 CFR 351.410(c).

Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). *See* 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut–to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997) (*Plate from South Africa*). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the chain of distribution), including selling functions, class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for export price (EP) and comparison–market sales (*i.e.*, NV based on either home market or third–country prices),[4] we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and CEP profit under section 772(d) of the Act. *See Micron Technology Inc. v. United States*, 243 F.3d 1301, 1314–1315 (Fed. Cir. 2001). Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive SG&A expenses, and profit for CV, where possible.

When the Department is unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale

[4] Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive SG&A expenses, and profit for CV, where possible.

to sales at a different LOT in the comparison–market. In comparing EP or CEP sales at a different LOT in the comparison–market, where available data make it practicable, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment was practicable), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. *See Plate from South Africa*, 62 FR at 61732–33.

In this administrative review, we obtained information from the respondent, AMS Belgium, regarding the marketing stages involved in making the reported foreign market and U.S. sales, including a description of the selling activities performed by AMS Belgium for each channel of distribution. The Department's LOT findings are summarized below.

AMS Belgium reported two channels of distribution and two LOTs in the U.S. market. AMS Belgium's two U.S. channels of distribution are: 1) direct shipment sales in which the merchandise was shipped directly from AMS Belgium to the final customer; and (2) sales from inventory maintained by ArcelorMittal Stainless International USA (AMSI USA). *See* October 3, 2008, Section C Questionnaire Response at 13. AMS Belgium reported several selling functions for its sales to the United States. *See* selling functions chart included at AMSI USA CEP Verification Report, dated June 1, 2009, at VE 3. During the sales verification, AMS Belgium provided a detailed explanation of its selling activities and indicated that its selling activities for U.S. sales are performed in support of AMSI USA.

Our analysis of these selling functions performed by AMS Belgium in the United States shows that the selling activities and services do not vary according to the channel of distribution. *Id.* We find that there is no variation in type or level of services provided by AMS Belgium for the channels of distribution in the United States. AMS Belgium provides comparable services for the two channels of distribution in the United States, which only differ based on whether the sale is shipped directly to the final customer or to AMSI USA's inventory. Therefore, based on the lack of differentiation between the type and level of activities associated with AMS Belgium's sales into the two distribution channels, we preliminarily determine that there is only one LOT in the U.S. market. *See* Sales Calculation Memorandum.

With respect to the Belgian market, AMS Belgium reported five customer categories in a single channel of distribution. Specifically, AMS Belgium reported that it sells SSPC to customers in the home market in a single LOT through its affiliated sales agent, ArcelorMittal Stainless Europe S.A (AMSE S.A.). AMS Belgium performs the following selling functions in the home market: strategic and economic planning, market research, technical advice regarding product characteristics and use of product, visiting customers, product information and training sessions, advertising, sales negotiations, communication with mill, scheduling production and freight arrangements, packing, after sales servicing support or claims, and personnel training, personnel exchange and manpower assistance. *See* Sales Verification Report at CEP VE 3. We examined the selling functions performed for the five customer categories and found that the selling activities and services do not vary by customer category. *See* Sales Calculation Memorandum. Therefore, we preliminarily conclude that AMS Belgium's sales in the home market constitute one LOT.

AMS Belgium performed the twelve aforementioned selling activities in the home market. The selling functions for the U.S. market are primarily performed by AMSI USA with the exception of the packing selling function, which is handled solely by AMS Belgium. As indicated above, AMS Belgium's selling activities for its U.S. sales are performed in support of AMSI USA. We analyzed the differences among the reported selling activities which demonstrated that AMS Belgium's sales in the home market were at different stages in the marketing process than the U.S. sales. Finally, we compared the U.S. and home market LOTs. In our comparison of the U.S. and home market LOTs, we eliminated from consideration selling functions performed by AMSI USA and only considered the portion of the selling functions performed by AMS Belgium after making adjustments under section 772(d) of the Act. As a result of our comparison, we preliminarily determined that AMS Belgium's home market LOT is at a more advanced stage of distribution than the CEP LOT.

We then considered whether we could make an LOT adjustment. In this case, AMS Belgium only sold at one LOT in the comparison market; therefore, there is no information available to determine a pattern of consistent price differences between the sales on which NV is based and the comparison market sales at the LOT of the export transaction, in accordance with the Department's normal methodology as described above. *See* 19 CFR 351.412(d). Further, we do not have record information which would allow us to examine pricing patterns based on the respondent's sales of other products, and there are no other respondents or other record information on which such an analysis could be based. Accordingly, because only one LOT exists in the home market we could not make an LOT adjustment. However, because the LOT in the comparison market is at a more advanced stage of distribution than the LOT of the CEP transactions, we made a CEP offset adjustment in accordance with section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). This offset is equal to the amount of indirect selling expenses incurred in the comparison market not exceeding the amount of indirect selling expenses and commissions deducted from the U.S. price in accordance with section 772(d)(1)(D) of the Act. For a detailed discussion, *see* Sales Calculation Memorandum.

Currency Conversion

We made currency conversions pursuant to 19 CFR 351.415 based on the exchange rates certified by the Federal Reserve Bank.

Preliminary Results of Review

We preliminarily determine that for the period May 1, 2007, through April 30, 2008, the following dumping margin exists:

Manufacturer/Exporter	Margin (percent)
ArcelorMittal Stainless Belgium (AMS Belgium)	6.70

Duty Assessment and Cash Deposit Requirements

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b), the Department calculates an assessment rate for each importer of the subject merchandise for each respondent. The Department will issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this review.

Furthermore, the following cash deposit rates will be effective with respect to all shipments of SSPC from Belgium entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided for by section 751(a)(1) of the Act: (1) for U&A Belgium, the cash

deposit rate will be the rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will be the company–specific rate established for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less–than-fair–value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered by this review, a prior review, or the LTFV investigation, the cash deposit rate shall be the all–others rate established in the LTFV investigation, which is 9.86 percent. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils From Belgium*, 64 FR 15476 (March 31, 1999). These deposit rates, when imposed, shall remain in effect until further notice.

Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of publication of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Unless extended by the Department, case briefs are to be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, are to be submitted no later than five days after the time limit for filing case briefs. Parties who submit arguments in this proceeding are requested to submit with the argument: (1) a statement of the issues, and (2) a brief summary of the argument. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

Also, pursuant to 19 CFR 351.310(c), within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs. Parties will be notified of the time and location. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief, no later than 120 days after publication of these preliminary results, unless extended. *See* 19 CFR 351.213(h).

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These preliminary results of this administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated June 1, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

[FR Doc. E9–13343 Filed 6–5–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–803]

Heavy Forged Hand Tools, With or Without Handles From the People's Republic of China (Axes and Adzes): Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* June 8, 2009.

SUMMARY: The Department of Commerce (''Department'') is rescinding an administrative review of the antidumping duty order on heavy forged hand tools, with or without handles from the People's Republic of China (''PRC''), with respect to axes and adzes, for the period of review (''POR'') February 1, 2008 through January 31, 2009. This rescission is based on the timely withdrawal of request for review by the party that requested the review, Fiskars Brands Inc. (''Fiskars'').

FOR FURTHER INFORMATION CONTACT: Alan Ray, Office 9, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482–5403.

Background

On February 4, 2009, the Department published in the **Federal Register** its notice of opportunity to request an administrative review of the antidumping duty order heavy forged hand tools (''HFHTs''), with or without handles from the PRC with respect to axes and adzes. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity To Request Administrative Review,* 74 CFR 6013 (February 4, 2009). On February 27, 2009, Fiskars requested an administrative review of the antidumping duty order on HFHTs, with or without handles from the PRC with respect to axes and adzes. On March 24, 2009, the Department initiated an antidumping duty administrative review on HFHTs, with or without handles from the PRC with respect to axes and adzes. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 74 FR 12310 (March 24, 2009). On May 18, 2009, Fiskars timely withdrew its request for review.

Scope of the Order

The products covered by this order are HFHTs comprising the following classes or kinds of merchandise: (1) Hammers and sledges with heads over 1.5 kg. (3.33 pounds) (''hammers/sledges''); (2) bars over 18 inches in length, track tools and wedges (''bars/wedges''); (3) picks and mattocks (''picks/mattocks''); and (4) axes, adzes and similar hewing tools (''axes/adzes'').

HFHTs include heads for drilling hammers, sledges, axes, mauls, picks and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and track tools including wrecking bars, digging bars and tampers; and steel woodsplitting wedges. HFHTs are manufactured through a hot forge operation in which steel is sheared to required length, heated to forging temperature and formed to final shape on forging equipment using dies specific to the desired product shape and size. Depending on the product, finishing operations may include shot blasting, grinding, polishing and painting, and the insertion of handles for handled products. HFHTs are currently provided for under the following Harmonized Tariff System of the United States (''HTSUS'') subheadings: 8205.20.60, 8205.59.30, 8201.30.00, and 8201.40.60. Specifically excluded from these investigations are hammers and sledges with heads 1.5 kg. (3.33 pounds) in weight and under, hoes and rakes, and bars 18 inches in length and under.

Rescission of Review

Section 351.213(d)(1) of the Department's regulations provide that the Department will rescind an administrative review if the party that requested the review withdraws its request for review within 90 days of the date of publication of the notice of initiation of the requested review, or withdraws its request at a later date if the Department determines that it is reasonable to extend the time limit for withdrawing the request. Fiskars properly withdrew its request before the 90-day deadline. Therefore, we are rescinding this review of the antidumping duty order on HFHTs, with or without handles from the PRC covering the period February 1, 2008 through January 31, 2009.

Assessment

The Department intends to issue assessment instructions to the U.S. Customs and Border Protection (''CBP'') 15 days after publication of this rescission notice. The Department will instruct CBP to assess antidumping duties at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i).

Notification to Parties

This notice also serves as a reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with section 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: June 1, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–13341 Filed 6–5–09; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–898]

Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to requests from interested parties, the Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on chlorinated isocyanurates (''chlorinated isos'') from the People's Republic of China (''PRC''). The period of review (''POR'') for this administrative review is June 1, 2007, through May 31, 2008. This administrative review covers one producer/exporter of the subject merchandise, *i.e.*, Hebei Jiheng Chemical Co., Ltd. (''Jiheng'').

We preliminarily determine that Jiheng made sales in the United States at prices below normal value (''NV''). If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on entries of subject merchandise during the POR for which the importer–specific assessment rates are above *de minimis*. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: June 8, 2009.

FOR FURTHER INFORMATION CONTACT: Jennifer Moats or Charles Riggle, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5047 or (202) 482–0650, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 24, 2005, the Department published in the **Federal Register** the antidumping duty order on chlorinated isos from the PRC.[1] On June 9, 2008, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on chlorinated isos from the PRC for the period June 1, 2007, through May 31, 2008.[2] On June 30, 2008, in accordance with 19 CFR 351.213(b)(2), Jiheng, a foreign producer/exporter of subject merchandise, requested that the Department review its sales of subject merchandise. On June 30, 2008, Clearon Corporation (''Clearon'') and Occidental Chemical Corporation (''OxyChem''), Petitioners in the underlying investigation, requested that the Department conduct an administrative review of Jiheng's sales and entries during the POR.

On July 30, 2008, the Department initiated the administrative review of the antidumping duty order on chlorinated isos from the PRC covering the period June 1, 2007 through May 31, 2008.[3] On September 5, 2008, the Department issued its antidumping duty questionnaire to Jiheng. On October 31, 2008, the Department requested that the Office of Policy provide a list of surrogate countries for this review which it did on November 3, 2008.[4]

On November 6, 2008, the Department issued a letter to interested parties seeking comments on surrogate country selection and surrogate values. On November 21, 2008, Jiheng submitted comments regarding the selection of a surrogate country. On December 1, 2008, Petitioners submitted publicly available information in order to value Jiheng's factors of production (''FOP''). On December 5, 2008, Jiheng submitted comments on Petitioners' December 1, 2008, surrogate value information. On May 5, 2009, Jiheng submitted additional surrogate value information from *Chemical Weekly* for certain chemicals used in its production of the subject merchandise.

On October 8, 2008, Jiheng submitted its section A questionnaire response (''AQR''). On October 23, 2008, Jiheng submitted its sections C and D questionnaire responses (''CQR and DQR'', respectively). On October 29, 2008, Jiheng submitted its cost reconciliation. On November 5, 2008, Petitioners submitted comments on Jiheng's AQR, CQR, and DQR. On December 16, 2008, the Department issued a supplemental questionnaire to

[1] *See Notice of Antidumping Duty Order: Chlorinated Isocyanurates From the People's Republic of China*, 70 FR 36561 (June 24, 2005).

[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 73 FR 32557 (June 9, 2008).

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request for Revocation in Part, and Deferral of Administrative Review* 73 FR 44220 (July 30, 2008) (*''Initiation Notice''*).

[4] *See* Memorandum regarding ''Request for Surrogate-Country Selection: 2007-2008 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China'' (October 31, 2008); *see also* Memorandum regarding ''Antidumping Duty Administrative Review of Chlorinated Isocyanurates from the People's Republic of China: Request for a List of Surrogate Countries'' (November 3, 2008) (''Surrogate Country List'').

Jiheng. On January 8, 2009, Jiheng submitted its supplemental questionnaire response (''1st SQR'').

On February 10, 2009, Petitioners submitted comments on Jiheng's 1st SQR. On February 24, 2009, the Department issued a second supplemental questionnaire to Jiheng. On March 4, 2009, the Department published a notice in the **Federal Register** extending the time limit for the preliminary results of review until June 1, 2009.[5] On March 18, 2009, Jiheng submitted its second supplemental questionnaire response (''2nd SQR'').

The Department verified the accuracy of Jiheng's submissions in Hengshui, China from March 30, 2009, through April 3, 2009. On May 5, 2009, the Department requested that Jiheng submit a corrected U.S. sales database to include changes that Jiheng had reported as minor corrections prior to verification. On May 8, 2009, Jiheng submitted its revised U.S. sales database.

Scope of the Order

The products covered by this order are chlorinated isos, as described below:

Chlorinated isos are derivatives of cyanuric acid, described as chlorinated s–triazine triones. There are three primary chemical compositions of chlorinated isos: (1) trichloroisocyanuric acid ($Cl_3(NCO)_3$), (2) sodium dichloroisocyanurate (dihydrate) ($NaCl_2(NCO)_3(2H_2O)$, and (3) sodium dichloroisocyanurate (anhydrous) ($NaCl_2(NCO)_3$). Chlorinated isos are available in powder, granular, and tableted forms. This order covers all chlorinated isos. Chlorinated isos are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.40.50, 3808.50.40 and 3808.94.50.00 of the Harmonized Tariff Schedule of the United States (''HTSUS''). The tariff classification 2933.69.6015 covers sodium dichloroisocyanurates (anhydrous and dihydrate forms) and trichloroisocyanuric acid. The tariff classifications 2933.69.6021 and 2933.69.6050 represent basket categories that include chlorinated isos and other compounds including an unfused triazine ring. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Non–Market Economy Country

The Department has treated the PRC as a non–market economy (''NME'') country in all past antidumping duty investigations and administrative reviews and continues to do so in this case.[6] No interested party in this case has argued that we should do otherwise. Designation as an NME country remains in effect until it is revoked by the Department. *See* section 771(18)(C)(i) of the Tariff Act of 1930, as amended (the ''Act'').

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it, in most instances, to base NV on the NME producer's FOPs. The Act further instructs that valuation of the FOPs shall be based on the best available information in the surrogate market economy country or countries considered to be appropriate by the Department. *See* section 773(c)(1) of the Act. When valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market economy countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise. *See* section 773(c)(4) of the Act. Further, the Department normally values all FOPs in a single surrogate country. See 19 CFR 351.408(c)(2). The sources of the surrogate factor values are discussed under the ''Normal Value'' section below and in the Surrogate Value Memorandum, which is on file in the Central Records Unit (''CRU''), Room 1117 of the main Department building.[7]

In examining which country to select as its primary surrogate for this proceeding, the Department first determined that India, Indonesia, the Philippines, Colombia and Thailand are countries comparable to the PRC in terms of economic development. *See* Surrogate Country List. On November 6, 2008, the Department issued a request for interested parties to submit comments on surrogate country selection. On November 21, 2008, Jiheng submitted comments regarding the selection of a surrogate country. On December 1, 2008, Petitioners submitted FOP surrogate value information that included several values obtained from India.

Jiheng argues that the Department should continue to use India as a surrogate country for this segment of the proceeding, as it has in previous segments, because India produces comparable merchandise and there are publicly available data with which to value the reported FOP information in this case. All parties which submitted surrogate value data submitted Indian sourced data for the majority of their data.

After evaluating interested parties' comments, the Department determined that India is the appropriate surrogate country for use in this review. The Department based its decision on the following facts: (1) India is at a level of economic development comparable to that of the PRC; (2) India is a significant producer of comparable merchandise, *i.e.*, calcium hypochlorite; and (3) India provides the best opportunity to use quality, publicly available data to value the FOPs. On the record of this review, we have usable surrogate financial data from India, but no such surrogate financial data from any other potential surrogate country. Additionally, a vast majority of the data submitted by both Jiheng and the Petitioners for our consideration as potential surrogate values is sourced from India.

Therefore, because India best represents the experience of producers of comparable merchandise operating in a surrogate country, we have selected India as the surrogate country and, accordingly, have calculated NV using Indian prices to value the respondents' FOPs, when available and appropriate. *See* Surrogate Value Memorandum. We have obtained and relied upon publicly available information wherever possible.

In accordance with 19 CFR 351.301(c)(3)(ii), interested parties may submit publicly available information to value FOPs until 20 days after the date of publication of the preliminary results.[8]

[5] *See Chlorinated Isocyanurates from the People's Republic of China: Extension of Time limit for Preliminary Results of Antidumping Duty Administration Review*, 74 FR 9385 (March 4, 2009).

[6] *See, e.g., Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 73 FR 52645 (September 10, 2008); and *Folding Metal Tables and Chairs from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 3560 (January 21, 2009).

[7] *See* Memorandum regarding ''Preliminary Results of the 2007-2008 Administrative Review of Chlorinated Isocyanurates from the People's Republic of China: Surrogate Value Memorandum'' (June 1, 2009) (''Surrogate Value Memorandum'').

[8] In accordance with 19 CFR 351.301(c)(1), for the final results of this administrative review, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information placed on the record. The Department generally will not accept the submission of additional, previously absent-from-the-record alternative surrogate value

Continued

Separate Rates

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of merchandise subject to review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* government control over export activities. The Department analyzes each entity exporting the subject merchandise under a test arising from the *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (''*Sparklers*''), as further developed in *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (''*Silicon Carbide*''). However, if the Department determines that a company is wholly foreign–owned or located in a market economy country, then a separate–rate analysis is not necessary to determine whether it is independent from government control.

Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies. *See Sparklers*, 56 FR at 20589.

The evidence provided by Jiheng supports a preliminary finding of *de jure* absence of government control based on the following: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) there are applicable legislative enactments decentralizing control of the companies; and (3) there are formal measures by the government decentralizing control of companies. *See* Jiheng's AQR at Exhibit A3.1–A3.3.

Absence of De Facto Control

Typically, the Department considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. *See Silicon Carbide*, 59 FR at 22586–87; *see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995). The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates.

The evidence placed on the record of this administrative review by Jiheng demonstrates an absence of *de facto* government control with respect to Jiheng's exports of the merchandise under review, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. *See* Jiheng's AQR at pages A–13 through A–19 and Jiheng's Verification Report dated May 11, 2009, at pages 7–8.

Date of Sale

Section 351.401(i) of the Department's regulations states that:

> In identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the normal course of business. However, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.

Jiheng reported the shipment date as the date of sale because it claims that, for its U.S. sales of subject merchandise made during the POR, the material terms of sale were established on the shipment date, and for many of its sales the shipment date occurs on or before the invoice date. Jiheng also stated that selecting the shipment date as the date of sale insures a consistent methodology for selecting the date of sale with previous segments in which Jiheng has participated. We have preliminarily determined that the shipment date is the most appropriate date to use as Jiheng's date of sale in accordance with our long–standing practice of determining the date of sale as the date on which the final terms of sale are established.[9] Evidence on the record demonstrates that sometimes the shipment date occurs prior to the invoice date[10] and it is the Department's practice to use shipment date as the date of sale when the shipment date occurs prior to the invoice date.[11] Finally, we applied the shipment date as the sale date in the prior POR.[12]

Fair Value Comparisons

To determine whether sales of chlorinated isos to the United States by Jiheng were made at less than NV, we compared export price (''EP'') to NV, as described in the ''Export Price'' and ''Normal Value'' sections of this notice, pursuant to section 771(35) of the Act.

Export Price

Jiheng sold the subject merchandise directly to unaffiliated purchasers in the United States prior to importation into the United States. Therefore, we have used EP in accordance with section 772(a) of the Act because the use of the constructed export price methodology is not otherwise indicated. We calculated EP based on the price including the appropriate shipping terms to the unaffiliated purchasers reported by Jiheng. To this price, we added amounts for components that were supplied free of charge or reimbursed by the

information pursuant to 19 CFR 351.301(c)(1). *See Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part*, 72 FR 58809 (October 17, 2007) and accompanying Issues and Decision Memorandum at Comment 2.

[9] *See Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10; and *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002), and accompanying Issues and Decision Memorandum at Comment 2.

[10] *See* Jiheng's CQR at page C-13.

[11] *See, e.g., Notice of Final Determinations of Sales at Less Than Fair Value: Certain Durum Wheat and Hard Red Spring Wheat from Canada*, 68 FR 52741 (September 5, 2003), and accompanying Issues and Decision Memorandum at Comment 3.

[12] *See Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 73 FR 24943 (May 6, 2008) (unchanged in *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 73 FR 52645 (September 10, 2008)).

customer, where applicable, pursuant to section 772(c)(1)(A) of the Act.[13]

Jiheng reported that its U.S. customer(s) provided it with certain raw materials and packing materials free of charge. For Jiheng's products that contained inputs provided free of charge by a customer,[14] consistent with the Department's practice, we added to the U.S. price paid by the Jiheng's customer the built–up cost (*i.e.*, the surrogate value for these raw materials and packing materials multiplied by the reported FOPs for these items).[15]

Normal Value

Section 773(c)(1) of the Act provides that, in the case of an NME, the Department shall determine NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home–market prices, third–country prices, or constructed value under section 773(a) of the Act.

The Department will base NV on FOPs because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies. Therefore, we calculated NV based on FOPs in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c). The FOPs include: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. We used the FOPs reported by the respondent for materials, energy, labor, by–products, and packing. These reported FOPs included various FOPs provided free of charge by a customer as discussed in the ''Export Price'' section, above.

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to value the FOPs, but when a producer sources an input from a market–economy country and pays for it in market–economy currency, the Department may value the factor using the actual price paid for the input.[16] Jiheng reported that it did not purchase any inputs from market economy suppliers for the production of the subject merchandise. *See* Jiheng's DQR at page D–9.

With regard to the Indian import–based surrogate values, we have disregarded prices that we have reason to believe or suspect may be subsidized, such as those from Indonesia, South Korea, and Thailand. We have found in other proceedings that these countries maintain broadly available, non–industry-specific export subsidies and, therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized.[17] We are also guided by the statute's legislative history that explains that it is not necessary to conduct a formal investigation to ensure that such prices are not subsidized. *See* H.R. Rep. No. 100–576, at 590 (1988). Rather, the Department was instructed by Congress to base its decision on information that is available to it at the time it is making its determination. Therefore, we have not used prices from Indonesia, South Korea, and Thailand in calculating the Indian import–based surrogate values.

Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on the FOPs reported by Jiheng for the POR. To calculate NV, we multiplied the reported per–unit factor quantities by publicly available Indian surrogate values (except as noted below). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to render them delivered prices. Specifically, we added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the decision of the U.S. Court of Appeals for the Federal Circuit in *Sigma Corp. v. United States*, 117 F. 3d 1401, 1408 (Fed. Cir. 1997). For a detailed description of all surrogate values used for Jiheng, *see* the Surrogate Value Memorandum.

Except as noted below, we valued raw material inputs using the weighted–average unit import values derived from the *Monthly Statistics of the Foreign Trade of India*, as published by the Directorate General of Commercial Intelligence and Statistics of the Ministry of Commerce and Industry, Government of India in the World Trade Atlas, available at http://www.gtis.com/wta.htm (''WTA''). Where we could not obtain publicly available information contemporaneous with the POR with which to value FOPs, we adjusted the surrogate values using, where appropriate, the Indian Wholesale Price Index (''WPI'') as published in the *International Financial Statistics* of the International Monetary Fund. *See* Surrogate Value Memorandum. We further adjusted these prices to account for freight costs incurred between the supplier and respondent.

To value truck freight, we used the freight rates published by *www.infobanc.com*, ''The Great Indian Bazaar, Gateway to Overseas Markets.'' The logistics section of the website contains inland freight truck rates between many large Indian cities. The truck freight rates are for the period August 2008 through September 2008. Since these dates are not contemporaneous with the POR, we deflated the rates using Indian WPI. *See* Surrogate Value Memorandum.

We used the rail freight rates as used in the preceding administrative review published by *www.indianrailways.com* to value rail freight. Since the rail freight rates are not contemporaneous with the POR, we inflated the rail freight rates using Indian WPI. *See* the Surrogate Value Memorandum.

We valued calcium chloride, hydrochloric acid, barium chloride and sulfuric acid using *Chemical Weekly* because we did not have reliable Indian import statistics from the WTA for these factors. We adjusted these values for taxes and to account for freight costs incurred between the supplier and the respondent.

Jiheng reported that its U.S. customer(s) provided certain raw materials and packing materials free of charge. For Jiheng's products that included raw materials and packing materials provided free of charge by its customer, consistent with the Department's practice and section

[13] *See* Memorandum regarding ''Analysis for the Preliminary Results of the 2007-2008 Administrative Review of Chlorinated Isocyanurates from the People's Republic of China: Hebei Jiheng Chemical Company Ltd. (June 1, 2009).

[14] Jiheng stated that its customer sourced materials from both market-economy and NME suppliers. Jiheng further stated that it does not know the names of the market-economy suppliers. *See* Jiheng's DQR at D-8.

[15] *See, e.g., Notice of Final Determination of sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079 (September 8, 2006), and accompanying Issues and Decision Memorandum at Comment 17.

[16] *See* 19 CFR 351.408(c)(1); *see also Shakeproof Assembly Components Div. of Ill v. United States, 268 F.3d* 1376, 1382-1383 (Fed. Cir. 2001) (affirming the Department's use of market-based prices to value certain FOPs).

[17] *See, e.g., Frontseating Service Valves from the People's Republic of China; Preliminary Determination of Sales at Less Than Fair Value, Preliminary Negative Determination of Critical Circumstances, and Postponement of Final Determination*, 73 FR 62952 (October 22, 2008) (unchanged in *Frontseating Service Valves from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances*, 74 FR 10886 (March 13, 2009); and *China National Machinery Import & Export Corporation v. United States*, 293 F. Supp. 2d 1334 (CIT 2003), affirmed 104 Fed. Appx. 183 (Fed. Cir. 2004).

773(c)(1)(B) of the Act, we used the built–up cost (*i.e.*, the surrogate value for these raw materials and packing materials multiplied by the reported FOPs for these items) in the NV calculation.[18] Where applicable, we also adjusted these values to account for freight costs incurred between the port of exit and Jiheng's plants. *See* Surrogate Value Memorandum, and Jiheng's Preliminary Analysis Memorandum.

To value electricity, we used price data for small, medium, and large industries, as published by the Central Electricity Authority of the Government of India in its publication entitled ''Electricity Tariff & Duty and Average Rates of Electricity Supply in India,'' dated July 2006. These electricity rates represent actual country–wide, publicly–available information on tax–exclusive electricity rates charged to industries in India. *See* Surrogate Value Memorandum.

To value water, we used the revised Maharashtra Industrial Development Corporation (''MIDC'') water rates available at *http://www.midcindia.com/water–supply*, which we deflated using Indian WPI. *See* Surrogate Value Memorandum.

To value steam coal, we used data obtained for categories B and C for coal reported in the 2007 Indian Bureau of Mines' Minerals Yearbook adjusted for inflation. *See* Surrogate Value Memorandum.

To value steam, we used data obtained from the Indian financial statements of Hindalco Industries Limited. *See* Surrogate Value Memorandum.

Jiheng reported chlorine, hydrogen gas, ammonia gas, and sulfuric acid as by–products in the production of subject merchandise. We found in this administrative review, as confirmed at verification, that Jiheng has appropriately reported its by–products and, therefore, we have granted Jiheng a by–product offset for the quantities of these reported by–products. We valued chlorine and hydrogen gas with data obtained from Indian financial statements for companies that produce and sell both chlorine and hydrogen gas. *See* Surrogate Value Memorandum.

For direct labor, indirect labor and packing labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression–based wage rate as reported on Import Administration's web site.[19] Because this regression–based wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to all skill levels and types of labor reported by each respondent. *See* Surrogate Value Memorandum.

For packing materials, we used the per–kilogram values obtained from the WTA and made adjustments to account for freight costs incurred between the PRC supplier and Jiheng's plants. See Surrogate Value Memorandum.

None of the interested parties in this review provided financial statements for use in calculating a surrogate value for factory overhead, selling, general, and administrative expenses (''SG&A''), and profit for the preliminary results. Therefore, for factory overhead, SG&A, and profit values, we used information from Kanoria Chemicals and Industries Limited for the year ending March 31, 2007, which was used in the preceding administrative review and which we placed on the record of this administrative review. From this information, we were able to determine factory overhead as a percentage of the total raw materials, labor and energy (''ML&E'') costs; SG&A as a percentage of ML&E plus overhead (*i.e.*, cost of manufacture); and the profit rate as a percentage of the cost of manufacture plus SG&A. *See* Surrogate Value Memorandum for a full discussion of the calculation of these ratios.

Currency Conversion

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

Preliminary Results

We preliminarily determine that the following weighted–average dumping margin exists:

Manufacturer/Exporter	Margin (Percent)
Hebei Jiheng Chemical Co., Ltd.	3.05

Disclosure

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice. *See* 19 CFR 351.224(b). Interested parties are invited to comment on the preliminary results and may submit case briefs and/or written comments within 30 days of the date of publication of this notice. *See* 19 CFR 351.309(c)(ii). Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than five days after the time limit for filing the case briefs. *See* 19 CFR 351.309(d). The Department requests that parties submitting written comments provide an executive summary and a table of authorities as well as an additional copy of those comments electronically.

Any interested party may request a hearing within 30 days of publication of this notice. *See* 19 CFR 351.310(c). Hearing requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. See 19 CFR 351.310(d).

The Department intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. In accordance with 19 CFR 351.212(b)(1), we calculated exporter/importer (or customer)-specific assessment rates for the merchandise subject to this review. Where the respondent has reported reliable entered values, we calculated importer (or customer)-specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer). *See* 19 CFR 351.212(b)(1). Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis*, we will apply the assessment rate to the entered value of the importers'/customers' entries

[18] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079 (September 8, 2006), and accompanying Issues and Decision Memorandum at Comment 17.

[19] *See* Expected Wages of Selected NME Countries (May 14, 2008) (available at http://ia.ita.doc.gov/wages). The source of these wage rate data on the Import Administration's web site is the *Yearbook of Labour Statistics 2005*, ILO, (Geneva: 2005), Chapter 5B: Wages in Manufacturing. The years of the reported wage rates range from 2004 to 2005.

during the POR. *See* 19 CFR 351.212(b)(1).

Where we do not have entered values for all U.S. sales, we calculated a per–unit assessment rate by aggregating the antidumping duties due for all U.S. sales to each importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer). *See* 19 CFR 351.212(b)(1). To determine whether the duty assessment rates are *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer (or customer)-specific *ad valorem* ratios based on the estimated entered value. Where an importer (or customer)-specific *ad valorem* rate is zero or *de minimis*, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties. *See* 19 CFR 351.106(c)(2).

Cash Deposit Requirements

Further, the following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for Jiheng, the cash deposit rate will be the company–specific rate established in the final results of review (except, if the rate is zero or *de minimis*, a zero cash deposit will be required); (2) for previously investigated or reviewed PRC and non–PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter–specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC–wide rate of 285.63 percent; and (4) for all non–PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non–PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 1, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

[FR Doc. E9–13340 Filed 6–5–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–848]

Freshwater Crawfish Tail Meat From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Intent to Rescind Review in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to timely requests, the Department of Commerce (Department) is conducting an administrative review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (PRC). The period of review (POR) is September 1, 2007, through August 31, 2008.

We have preliminarily determined that sales have not been made below normal value by the exporter covered by the administrative review. If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection (CBP) to liquidate entries of merchandise exported by Xiping Opeck Food Co., Ltd., during the POR without regard to antidumping duties.

We invite interested parties to comment on these preliminary results. Parties who submit comments in this review are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: June 8, 2009.

FOR FURTHER INFORMATION CONTACT: Dmitry Vladimirov or Minoo Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0665 and (202) 482–1690, respectively.

Background

On September 15, 1997, the Department published an amended final determination and antidumping duty order on freshwater crawfish tail meat from the PRC. See *Notice of Amendment to Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Freshwater Crawfish Tail Meat From the People's Republic of China*, 62 FR 48218 (September 15, 1997). On September 2, 2008, the Department published a notice of opportunity to request an administrative review of the order. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 73 FR 51272 (September 2, 2008).

On September 17, 2008, Xiping Opeck Food Co., Ltd. (Xiping Opeck), a producer and exporter of crawfish tail meat from the PRC, requested an administrative review. On September 30, 2008, the petitioner, the Crawfish Processors Alliance, requested an administrative review of Shanghai Now Again International Trading Co., Ltd. (Shanghai Now Again), Xiping Opeck, and Yancheng Hi–King Agriculture Developing Co., Ltd. (Hi–King).

On October 29, 2008, based on timely requests for an administrative review, the Department published a notice of initiation of an administrative review of the antidumping duty order on freshwater crawfish tail meat from the PRC. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Deferral of Administrative Review*, 73 FR 64305 (October 29, 2008). The review was initiated with respect to Xiping Opeck, Shanghai Now Again, and Hi–King.

The POR is September 1, 2007, through August 31, 2008. We are conducting this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The product covered by the antidumping duty order is freshwater crawfish tail meat, in all its forms (whether washed or with fat on, whether purged or unpurged), grades, and sizes; whether frozen, fresh, or chilled; and regardless of how it is packed, preserved, or prepared. Excluded from the scope of the order are live crawfish and other whole crawfish, whether boiled, frozen, fresh, or chilled. Also excluded are saltwater crawfish of any type and parts thereof. Freshwater crawfish tail meat is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 1605.40.10.10 and 1605.40.10.90, which are the HTSUS numbers for prepared foodstuffs, indicating peeled crawfish tail meat and other, as introduced by CBP in 2000,

and HTSUS numbers 0306.19.00.10 and 0306.29.00.00, which are reserved for fish and crustaceans in general. The HTSUS subheadings are provided for convenience and customs purposes only. The written description of the scope of the order is dispositive.

Intent to Rescind Review in Part

Record evidence indicates that Shanghai Now Again and Hi–King did not have any exports of subject merchandise during the POR. See the November 19, 2008, submissions of Shanghai Now Again and Hi–King. Moreover, we have reviewed the CBP entry data for the POR and found no evidence of exports from these two entities. See Memorandum to File entitled ''Placement of Certain Import Data from the U.S. Customs and Border Protection Automated Commercial System on the Record of the Administrative Review,'' dated April 6, 2009. Additionally, on April 8, 2009, we made a no–shipments inquiry to CBP, requesting that, if any CBP import office has contrary information, appraising officers should report this information within 10 days of receipt of the message. To date, we have not received any evidence that these two entities had any shipments to the United States of subject merchandise during the POR. Therefore, pursuant to 19 CFR 351.213(d)(3), the Department intends to rescind this review in part with respect to Shanghai Now Again and Hi–King.

Non–Market-Economy Country Status

The Department considers the PRC to be a non–market-economy (NME) country. In accordance with section 771(18)(C)(i) of the Act, any determination that a country is an NME country shall remain in effect until revoked by the administering authority. See *Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the 2004/2005 Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review*, 71 FR 66304 (November 14, 2006). None of the parties to this proceeding has contested NME treatment for the PRC. Therefore, for these preliminary results of review we have treated the PRC as an NME country and applied our current NME methodology in accordance with section 773(c) of the Act.

In antidumping proceedings involving NME countries, pursuant to section 773(c)(1) of the Act, the Department generally bases normal value on the value of the NME producer's factors of production (FOP). In accordance with section 773(c)(4) of the Act, in valuing the FOP the Department uses, to the extent possible, the prices or costs of the FOP in one or more market–economy countries that are at a level of economic development comparable to that of the NME country which are significant producers of merchandise comparable to the subject merchandise. The Department has determined that India, Indonesia, the Philippines, Peru, Colombia, and Thailand are countries that are at a level of economic development comparable to that of the PRC.[1] While none of these countries is a significant producer of freshwater crawfish tail meat,[2] India has a seafood–processing industry that is comparable to the crawfish industry with respect to factory overhead, selling, general, and administrative (SG&A) expenses, and profit. Therefore, we have selected India as the primary surrogate country in which to value all inputs with the exception of live crawfish, the primary input, and the by–product, crawfish–shell scrap.

Because India does not have a fresh–crawfish industry (although it has a sea–crawfish industry) and we have determined that other forms of seafood are not sufficiently comparable to crawfish to serve as surrogates for live crawfish, we have valued live crawfish using the data submitted by the petitioner, which was obtained from the same source that was used to value live crawfish in several previous segments of this proceeding.[3] The petitioner submitted data on imports of live crawfish from Portugal into Spain as reported by *Agencia Tributaria*, the Spanish government agency responsible for trade statistics. Spain is a significant producer of comparable merchandise, *i.e.*, whole processed crawfish,[4] and there are publicly available import statistics for Spain that are contemporaneous with the POR.

We have selected Indonesia as a secondary surrogate country for purposes of valuing the crawfish shell by–product because there are no appropriate Indian surrogate values for crawfish shell by–product on the record of this review. We find that Indonesia is at a level of economic development comparable to the PRC, it produced wet crab and shrimp shells, merchandise comparable to the shell by–product, and has publicly available data, *i.e.*, a public price quote from an Indonesian company that has been used in prior segments of this proceeding.[5] No other parties commented on the selection of surrogate values.

Separate Rates

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of merchandise subject to a proceeding involving an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. The Department assigns separate rates in NME proceedings only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities under a test developed by the Department and described in *Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*), and *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*).

The Department's separate–rate test is used to determine whether an exporter

[1] See Memorandum from Kelly Parkhill, Acting Director, Office of Policy, to Laurie Parkhill, Office Director, AD/CVD Enforcement 5, ''Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Freshwater Crawfish Tail Meat (*''FCTM''*) from the People's Republic of China (*''PRC''*)'' (January 15, 2009).

[2] See Memorandum to Laurie Parkhill, Office Director, AD/CVD Enforcement 5, entitled ''Freshwater Crawfish Tail Meat from the People's Republic of China: Selection of a Surrogate Country,'' dated June 1, 2009 (Surrogate-Country Memorandum).

[3] See the March 10, 2009, submission by the petitioner entitled ''Freshwater Crawfish Tail Meat from the People's Republic of China: Surrogate Value Data.'' See also *Freshwater Crawfish Tail Meat From the People's Republic of China: Preliminary Results and Partial Rescission of the 2005-2006 Antidumping Duty Administrative Review and Preliminary Intent to Rescind 2005-2006 New Shipper Reviews*, 72 FR 57288 (October 9, 2007) (unchanged in *Freshwater Crawfish Tail Meat From the People's Republic of China: Final Results and Partial Rescission of the 2005-2006 Antidumping Duty Administrative Review and Rescission of 2005-2006 New Shipper Reviews*, 73 FR 20249 (April 15, 2008)). For an example of a previous segment of the proceeding where this source was used, see *Freshwater Crawfish Tail Meat From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Intent to Rescind Review in Part*, 73 FR 58115 (October 6, 2008) (unchanged in *Freshwater Crawfish Tail Meat From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Rescission of Review in Part*, 74 FR 6571 (February 10, 2009)).

[4] See Surrogate-Country Memorandum.

[5] See Memorandum to Barbara E. Tillman from Christian Hughes and Adina Teodorescu through Maureen Flannery re: Surrogate Valuation of Shell Scrap: Freshwater Crawfish Tail Meat from the People's Republic of China, Administrative Review 9/1/00-8/31/01 and New Shipper Reviews 9/1/00-8/31/01 and 9/1/00-10/15/01 (August 5, 2002), which was placed on the record of this review.

and/or producer is independent from government control and does not consider, in general, macroeconomic/border–type controls, *e.g.*, export licenses, quotas, and minimum export prices, particularly if these controls are imposed to prevent dumping. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255, 72256 (December 31, 1998) (*Mushrooms*). The test focuses, rather, on controls over the investment, pricing, and output decision–making process at the individual firm level. See *Mushrooms*, 63 FR at 72256 (citing *Notice of Final Determination of Sales at Less than Fair Value: Certain Cut–to-Length Carbon Steel Plate From Ukraine*, 62 FR 61754, 61758 (November 19, 1997), and *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of Antidumping Administrative Review*, 62 FR 61276, 61279 (November 17, 1997)).

Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; (3) other formal measures by the government decentralizing control of companies. See *Sparklers*, 56 FR at 20589.

Xiping Opeck demonstrated that it is an independent legal entity and provided copies of its business license (wherein it is stated that the operational scope of the company allows it to engage in the exportation of freshwater crawfish tail meat) and its foreign–trade operator registration. See Xiping Opeck's November 19, 2008, submission at pages 1–4 and Exhibit SR–1, and December 24, 2008, submission at pages A–1 through A–8 and Exhibit A–3. Xiping Opeck also reported that no export quotas apply to crawfish and that no export license is required to export freshwater crawfish tail meat to the United States. See Xiping Opeck's December 24, 2008, submission at page A–5. Prior verifications have confirmed that there are no commodity–specific export licenses required and no quotas for the seafood category ''Other,'' which includes crawfish, in *China's Tariff and Non–Tariff Handbook* for 1996. See *Freshwater Crawfish Tail Meat From The People's Republic of China; Preliminary Results of New Shipper Review*, 64 FR 8543 (February 22, 1999) (unchanged in *Freshwater Crawfish Tail Meat From the People's Republic of China; Final Results of New Shipper Review*, 64 FR 27961 (May 24, 1999)).

In addition, we have confirmed previously that freshwater crawfish tail meat is not on the list of commodities with planned quotas in the 1992 PRC Ministry of Foreign Trade and Economic Cooperation document entitled *Temporary Provisions for Administration of Export Commodities*. See *Freshwater Crawfish Tail Meat From The People's Republic of China; Preliminary Results of New Shipper Review*, 64 FR at 8544 (unchanged in *Freshwater Crawfish Tail Meat From the People's Republic of China; Final Results of New Shipper Review*). We found no evidence of *de jure* governmental control over Xiping Opeck's exportation of freshwater crawfish tail meat.

In Exhibit A–2 of its December 24, 2008, submission Xiping Opeck provided the *Company Law of the People's Republic of China*. The Department has found previously that the *Company Law of the People's Republic of China*, made effective on July 1, 1994, with the amended version promulgated on August 28, 2004, states that a company is an enterprise legal person, that shareholders shall assume liability towards the company to the extent of their shareholdings, and that the company shall be liable for its debts to the extent of all its assets. See *Freshwater Crawfish Tail Meat From the People's Republic of China: Preliminary Results and Partial Rescission of the 2005–2006 Antidumping Duty Administrative Review and Preliminary Intent to Rescind 2005–2006 New Shipper Reviews* (unchanged in *Freshwater Crawfish Tail Meat from the People's Republic of China: Final Results and Partial Rescission of the 2005–2006 Antidumping Duty Administrative Review and Rescission of the 2005–2006 New Shipper Reviews*).

Additionally, the *Foreign Trade Law of the People's Republic of China* which Xiping Opeck placed on the record of this review also indicates a lack of *de jure* government control. Specifically, this document identifies the rights and responsibilities of organizations engaged in foreign trade, grants autonomy to foreign–trade operators in management decisions, and establishes the foreign–trade operator's accountability for profits and losses. See Xiping Opeck's December 24, 2008, submission at Exhibit A–2. Based on the foregoing, the Department has preliminarily determined that there is an absence of *de jure* governmental control over the export activities of Xiping Opeck.

Absence of De Facto Control

Typically the Department considers the following four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) whether the export prices are set by, or are subject to the approval of, a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. See *Silicon Carbide*, 59 FR at 22586–87; see also *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995). The Department considers an analysis of *de facto* control to be critical in determining whether a respondent is, in fact, subject to a degree of governmental control that would preclude the Department from assigning the respondent a separate rate.

Xiping Opeck has asserted the following: (1) it establishes its own export prices through direct negotiations with its customers; (2) it negotiates contracts not subject to review or guidance from any governmental entities or organizations; (3) its shareholders elect managers and make personnel decisions independent of the PRC government's approval or review; (4) it is not required to sell any portion of the foreign currency it earns to the government, it retains the proceeds of its export sales, and uses profits according to its business needs. See Xiping Opeck's December 24, 2008, submission at pages A–6 through A–8. Based upon the record information, the Department has preliminarily determined that there is an absence of *de facto* governmental control over the export activities of Xiping Opeck. Given that the Department has found that Xiping Opeck operates free of *de jure* and *de facto* governmental control, it has preliminarily determined that Xiping Opeck has satisfied the criteria for a separate rate.

U.S. Price

In accordance with section 772(a) of the Act, we based Xiping Opeck's U.S. price on export price (EP) because the first sales to unaffiliated purchasers were made prior to importation and constructed export price was not otherwise warranted by the facts on the record. We calculated EP based on the

free–on-board packed price to the first unaffiliated purchaser in the United States. In accordance with section 772(c) of the Act, we calculated net EP by deducting, where applicable, foreign inland–freight expenses, foreign brokerage and handling expenses, ocean–freight expenses, and credit expenses from the starting price (gross unit price) charged to the first unaffiliated customer in the United States. We based all movement expenses on surrogate values because a PRC company provided the movement services (see the ''Normal Value'' section of this notice for further details).

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine normal value using an FOP methodology if the merchandise is exported from an NME country and the available information does not permit the calculation of normal value using home–market prices, third–country prices, or constructed value under section 773(a) of the Act. The Department uses an FOP methodology because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under its normal methodologies. See *Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part*, 70 FR 39744, 39754 (July 11, 2005) (unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of 2003–2004 Administrative Review and Partial Rescission of Review*, 71 FR 2517 (January 17, 2006)).

We calculated normal value by adding together the value of the FOP, general expenses, profit, and packing costs.[6] Specifically, we valued material, labor, energy, and packing by multiplying the amount of the factor consumed in producing the subject merchandise by the average unit surrogate value of the factor. In addition, we added freight costs to the surrogate costs that we calculated for material inputs. We calculated freight costs by multiplying surrogate freight rates by the shorter of the reported distance from the domestic supplier to the factory that produced the subject merchandise or the distance from the nearest seaport to the factory that produced the subject merchandise, as appropriate. This adjustment is in accordance with the decision by the United States Court of Appeals for the Federal Circuit in *Sigma Corp. v. United States*, 117 F.3d 1401, 1407–1408 (Fed. Cir. 1997). We increased the calculated costs of the FOP for surrogate general expenses and profit. See Memorandum to the File entitled ''Fresh Crawfish Tail Meat from the People's Republic of China: Surrogate–Value Memorandum,'' dated June 1, 2009 (Surrogate–Value Memo).

Surrogate Values

In selecting surrogate values, to the extent practicable we followed our practice of choosing publicly available values which are non–export averages, representative of a range of prices in effect during the POR or over a period as close as possible in time to the POR, product–specific, and tax–exclusive. See, *e.g.*, *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004) (unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004)). We also considered the quality of the source of surrogate information in selecting surrogate values. See *Manganese Metal From the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 63 FR 12440 (March 13, 1998). Where we could only obtain surrogate values that were not contemporaneous with the POR, we inflated the surrogate values using, where appropriate, the Indian Wholesale Price Index (Indian WPI) and the Indonesian Wholesale Price Index (Indonesian WPI) as published in the *International Financial Statistics* of the International Monetary Fund. See Surrogate–Value Memo.

In calculating surrogate values from import statistics and in accordance with our practice, we disregarded statistics for imports from NME countries and countries deemed to maintain broadly available, non–industry-specific subsidies which may benefit all exporters to all export markets (*i.e.*, Indonesia, the Republic of Korea, and Thailand). See, *e.g.*, *Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields From The People's Republic of China*, 67 FR 6482 (February 12, 2002), and accompanying Issues and Decision Memorandum at Comment 1. See also *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 68 FR 66800, 66808 (November 28, 2003) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (April 16, 2004)). Additionally, we excluded from our calculations imports that were labeled as originating from an unspecified country because we could not determine whether they were from an NME country.

We used the following surrogate values in our margin calculations for these preliminary results of review. We valued coal and packing materials using September 2007–August 2008 weighted–average Indian import values derived from the *World Trade Atlas* online (*WTA*). The Indian import statistics that we obtained from the *WTA* were published by the Directorate General of Commercial Intelligence & Statistics, Ministry of Commerce of India, and are contemporaneous with the POR. We valued whole live crawfish using the publicly available data for Spanish imports of whole live crawfish from Portugal during the POR submitted by the petitioner. We valued the crawfish shell by–product using a 2001 price quote from Indonesia for wet crab and shrimp shells and inflated this value using the Indonesian WPI to make it contemporaneous with the POR.

We valued water using data from the Maharashtra Industrial Development Corporation (www.midcindia.org) because this source includes a wide range of industrial water tariffs. Specifically, this source provides 386 industrial water rates within the Maharashtra province for June 2003 (193 for the ''inside industrial areas'' usage category and 193 for the ''outside industrial areas'' usage category). We inflated the surrogate value for water using the Indian WPI to make it contemporaneous with the POR. We valued electricity using price data for small, medium, and large industries as published by the Central Electricity Authority of the Government of India in its publication entitled Electricity Tariff & Duty and Average Rates of Electricity Supply in India, dated July 2006. These electricity rates represent actual country–wide, publicly available information on tax–exclusive electricity

[6] We based the values of the FOPs on surrogate values (see ''Surrogate Values'' section below).

rates charged to industries in India. Because the electricity rates are not contemporaneous with the POR, we inflated the values using the Indian WPI to make it contemporaneous with the POR.

We valued non–refrigerated truck–freight expenses using a per–unit average rate for September 2008, which we calculated from data at *www.infobanc.com/logistics/logtruck.htm*. The logistics section of this website contains rates for inland–freight trucking between many large Indian cities. We deflated the per–unit average truck–freight rate using the Indian WPI to make it contemporaneous with the POR. We valued refrigerated–truck freight expenses based on price quotations for April 2004 from CTC Freight Carriers of Delhi, India, placed on the record of the antidumping investigation of certain frozen warmwater shrimp from the PRC. We inflated this surrogate value using the Indian WPI.

To value brokerage and handling, we used the average of the publicly summarized versions of values for brokerage and handling expenses reported in the following sources: Navneet Publications (India) Ltd.'s March 20, 2009, Section C submission (taken from the 2007–2008 administrative review of the antidumping duty order on certain lined paper products from India); Essar Steel Limited's (Essar's) October 15, 2008, Section C submission (taken from the 2006–2007 administrative review of the antidumping duty order on hot–rolled carbon steel flat products from India); Himalaya International Ltd.'s (Himalaya's) May 26, 2006, Section C submission (taken from 2005–2006 administrative review of the antidumping duty order on certain preserved mushrooms from India). Because data reported by Essar and Himalaya were not contemporaneous with the POR, we inflated the surrogate values for domestic brokerage and handling expenses for these companies using the Indian WPI. See Surrogate–Value Memo for further details on the surrogate values we used for these preliminary results.

We valued ocean–freight expenses using publicly available data we collected from Maersk Line's website at *http://www.maerskline.com*. We obtained a price quote in effect during the month of the POR in which Xiping Opeck made shipments of frozen freshwater crawfish tail meat to the United States. This price quote is for a reefer–high cube 40–foot container for the points of origin and destination reported by Xipng Opeck. See Surrogate–Value Memo.

The Department's regulations require the use of a regression–based wage rate. See 19 CFR 351.408(c)(3). Therefore, to value labor, we used the regression–based wage rate for the PRC published on the Import Administration (IA) website. See the IA website at *http://ia.ita.doc.gov/wages/05wages/05wages–041608.html*. See also *Corrected 2007 Calculation of Expected Non–Market Economy Wages*, 73 FR 27795 (May 14, 2008). We applied the same wage rate to all skill levels and types of labor (*i.e.*, direct production, indirect, packing) reported by Xiping Opeck because this regression–based wage rate does not separate the labor rates into different skill levels or types of labor.

We valued SG&A expenses, factory–overhead costs, and profit using the 2002–2003 financial statements of Nekkanti Sea Foods Ltd., an Indian seafood processor. See Surrogate–Value Memo.

Currency Conversion

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. These exchange rates are available on the IA web site at *http://ia.ita.doc.gov/exchange/index.html*.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the weighted–average dumping margin for merchandise exported by Xiping Opeck is 0.00 percent for the period September 1, 2007, through August 31, 2008.

Comments

We will disclose the calculations used in our analysis to interested parties in this review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties may submit publicly available information to value factors no later than 20 days after the date of publication of these preliminary results of review. See 19 CFR 351.301(c)(3)(ii). Any interested party may request a hearing within 30 days of the date of publication of this notice. See 19 CFR 351.310. Interested parties who wish to request a hearing or to participate in a hearing if one is requested must submit a written request to the Assistant Secretary for Import Administration within 30 days of the date of publication of this notice. Requests should contain the following: (1) the party's name, address, and telephone number; (2) the number of participants; (3) a list of issues to be discussed. See 19 CFR 351.310(c).

Issues raised in the hearing will be limited to those raised in the case briefs. See 19 CFR 351.310(c). Case briefs from interested parties may be submitted not later than 30 days after the date of publication of this notice of preliminary results of review. See 19 CFR 351.309(c)(1)(ii). Rebuttal briefs from interested parties, limited to the issues raised in the case briefs, may be submitted not later than five days after the time limit for filing the case briefs or comments. See 19 CFR 351.309(d)(1). If requested, any hearing will be held two days after the scheduled date for submission of rebuttal briefs. See 19 CFR 351.310(d). Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument a statement of the issue, a summary of the arguments not exceeding five pages, and a table of statutes, regulations, and cases cited. See 19 CFR 351.309(c)(2).

The Department will issue the final results of this administrative review, including the results of its analysis of issues raised by parties in their comments, within 120 days after the date of publication of this notice. See section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. If these preliminary results are adopted in our final results of review, because we calculated a margin of zero percent for Xiping Opeck, we will instruct CBP to liquidate the entries of merchandise exported by Xiping Opeck without regard to antidumping duties.

Cash–Deposit Requirements

The following cash–deposit requirements will be effective upon publication of the final results of this review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date as provided by section 751(a)(2)(C) of the Act: (1) for subject merchandise exported by Xiping Opeck, the cash–deposit rate will be that established in the final results of review; (2) for previously reviewed or investigated companies not listed above that have separate rates, the cash–deposit rate will continue to be the company–specific rate published for the most recent period; (3) for all other PRC exporters of subject merchandise which

have not been found to be entitled to a separate rate, the cash–deposit rate will be PRC–wide rate of 223.01 percent; (4) for all non–PRC exporters of subject merchandise the cash–deposit rate will be the rate applicable to the PRC entity that supplied that exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and this notice are in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: June 1, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

[FR Doc. E9–13345 Filed 6–5–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2009–OS–0075]

Privacy Act of 1974; System of Records

AGENCY: National Security Agency/Central Security Service, DoD.

ACTION: Notice to Alter a System of Records.

SUMMARY: The National Security Agency/Central Security Service is proposing to alter an exempt system of records to its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action would be effective without further notice on July 8, 2009 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the National Security Agency/Central Security Service, Office of Policy, 9800 Savage Road, Suite 6248, Ft. George G. Meade, MD 20755–6248.

FOR FURTHER INFORMATION CONTACT: Ms. Anne Hill at (301) 688–6527.

SUPPLEMENTARY INFORMATION: The National Security Agency's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on June 1, 2009, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: June 1, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

GNSA 08

SYSTEM NAME:

NSA/CSS Payroll and Claims (June 7, 1995, 60 FR 30074).

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with ''NSA/CSS Payroll Processing Records''.

SYSTEM LOCATION:

Delete entry and replace with ''Primary location: National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755–6000.

DECENTRALIZED SEGMENTS:

Defense Intelligence Agency (DIA) Headquarters and DIA field elements, DoD activities supported by DIA, and NSA field elements as authorized and appropriate. For official mailing addresses for any of the decentralized system locations, write to the National Security Agency/Central Security Service, 9800 Savage Road, Ft. George G. Meade, MD 20755–6000''.

CATEGORIES OF INDIVIDUALS COVERED IN THE SYSTEM:

Delete entry and replace with ''NSA/CSS and DIA Civilian employees, reemployed annuitants, personnel under contract and other DoD activities supported by DIA''.

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''File may consist of timesheets; work schedule changes; locator cards and other correspondence or revisions related to actions concerning time and attendance, absence, annual leave, sick leave, leave without pay, advanced leave, administrative leave, exemplary use of leave, unauthorized leave and absence and other related matters; payroll deductions, allotments and allowances; pay adjustment authorizations (DD Form 139); direct deposit; taxes; government life insurance; health insurance; savings bonds; retirement records; flexible spending account; long term care; thrift savings plan; dental/vision; electronic fund transfer; combined Federal campaign; and W2 record. Records may consist of name, Social Security Number (SSN), home address and phone number, emergency point of contact name and phone number and financial information''.

AUTHORITY FOR MAINTENANCE OF SYSTEM:

Delete entry and replace with ''The National Security Agency Act of 1959, Public Law No. 86–36 (50 U.S.C. 402note); Title 5, Part III, of the United States Code (Employees); Title 31, Chapter 35, of the United States Code (Accounting and Collection); Title 5, Chapter 1, of the United States Code of Federal Regulations (Office of Personnel Management) and E.O. 9397 (SSN)''.

PURPOSE(S):

Delete entry and replace with ''To provide a means of accounting for all time and attendance of the NSA/CSS civilian employees, DIA civilian employees, and certain contract employees; to maintain effective control and accountability for all relevant appropriated funds; to provide accounting data to support budget requests and control the execution of budgets; to provide financial information required by the Office of Management and Budget; and for agency management and payroll activities''.

ROUTINE USE OF THE RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Delete entry and replace with ''In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To contractor employees to assist government personnel in processing the payroll.

To other government entities in connection with Social Security deductions, unemployment compensation claims, job-related injury

and death benefits, tax audit and collections.

To any party, council, representative, and/or witness in any legal proceeding, where pertinent, to which DoD is a party before a court or administrative body (including, but not limited to, the Equal Employment Opportunity Commission and Merit Service Protection Board).

The DoD 'Blanket Routine Uses' set forth at the beginning of the NSA/CSS' compilation of systems of records notices apply to this system''.

* * * * *

STORAGE:

Delete entry and replace with ''Paper in file folders and electronic storage media''.

* * * * *

SAFEGUARDS:

Delete entry and replace with ''Buildings are secured by a series of guarded pedestrian gates and checkpoints. Access to facilities is limited to security-cleared personnel and escorted visitors only. Within the facilities themselves, access to paper and computer printouts are controlled by limited-access facilities and lockable containers. Access to electronic means is limited and controlled by computer password protection''.

RETENTION AND DISPOSAL:

Delete entry and replace with ''Time and attendance records are destroyed after Government Accounting Office audit or when 6 years old. Leave records are placed in Official Personnel File then destroyed 65 years after separation from Federal Service. Employee pay records are destroyed when 56 years old.

Records are destroyed by pulping, burning, shredding, or erasure or destruction of magnet media''.

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Chief, Payroll Division, National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755–6000''.

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the National Security Agency/Central Security Service, Freedom of Information Act/Privacy Act Office, 9800 Savage Road, Suite 6248, Ft. George G. Meade, MD 20755–6248.

Written inquiries should contain the individual's full name, Social Security Number (SSN) and mailing address''.

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system should address written inquiries to the National Security Agency/Central Security Service, Freedom of Information Act/Privacy Act Office, 9800 Savage Road, Suite 6248, Ft. George G. Meade, MD 20755–6248.

Written inquiries should contain the individual's full name, Social Security Number (SSN) and mailing address''.

CONTESTING RECORD PROCEDURES:

Delete entry and replace with ''The NSA/CSS rules for contesting contents and appealing initial determinations are published at 32 CFR part 322 or may be obtained by written request addressed to the National Security Agency/Central Security Service, Freedom of Information Act/Privacy Act Office, 9800 Savage Road, Suite 6248, Ft. George G. Meade, MD 20755–6248''.

RECORD SOURCE CATEGORIES:

Delete entry and replace with ''Forms, cards, requests and other documentation submitted by individuals, supervisors, personnel file data, time and attendance file data, and other sources as appropriate and required''.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Delete entry and replace with ''Individual records in this file may be exempt pursuant to 5 U.S.C. 552a(k)(2), as applicable.

An exemption rule for this record system has been promulgated according to the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 322. For additional information contact the system manager.''

* * * * *

GNSA 08

SYSTEM NAME:

NSA/CSS Payroll Processing File.

SYSTEM LOCATION:

Primary location: National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755–6000.

Decentralized segments: Defense Intelligence Agency (DIA) Headquarters and DIA field elements, DoD activities supported by DIA, and NSA field elements as authorized and appropriate. For official mailing addresses for any of the decentralized system locations, write to the National Security Agency/Central Security Service, 9800 Savage Road, Ft. George G. Meade, MD 20755–6000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NSA/CSS and DIA Civilian employees, reemployed annuitants, personnel under contract and other DoD activities supported by DIA.

CATEGORIES OF RECORDS IN THE SYSTEM:

File may consist of timesheets; work schedule changes; locator cards and other correspondence or revisions related to actions concerning time and attendance, absence, annual leave, sick leave, leave without pay, advanced leave, administrative leave, exemplary use of leave, unauthorized leave and absence and other related matters; payroll deductions, allotments and allowances; pay adjustment authorizations (DD Form 139); direct deposit; taxes; government life insurance; health insurance; savings bonds; retirement records; flexible spending account; long term care; thrift savings plan; dental/vision; electronic fund transfer; combined Federal campaign; and W2 record. Records may consist of name, Social Security Number (SSN) home address, home phone number, emergency point of contact name and phone number and financial information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Agency Act of 1959, Public Law No. 86–36 (50 U.S.C. 402 note); Title 5, Part III, of the United States Code (Employees); Title 31, Chapter 35, of the United States Code (Accounting and Collection); Title 5, Chapter 1, of the United States Code of Federal Regulations (Office of Personnel Management) and E.O. 9397 (SSN).

PURPOSE(S):

To provide a means of accounting for all time and attendance of the NSA/CSS civilian employees, DIA civilian employees, and certain contract employees; to maintain effective control and accountability for all relevant appropriated funds; to provide accounting data to support budget requests and control the execution of budgets; to provide financial information required by the Office of Management and Budget; and for agency management and payroll activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To contractor employees to assist government personnel in processing the payroll.

To other government entities in connection with Social Security deductions, unemployment compensation claims, job-related injury and death benefits, tax audit and collections.

To any party, council, representative, and/or witness in any legal proceeding, where pertinent, to which DoD is a party before a court or administrative body (including, but not limited to, the Equal Employment Opportunity Commission and Merit Service Protection Board).

The DoD 'Blanket Routine Uses' set forth at the beginning of the NSA/CSS' compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

By name, Social Security Number (SSN).

SAFEGUARDS:

Buildings are secured by a series of guarded pedestrian gates and checkpoints. Access to facilities is limited to security-cleared personnel and escorted visitors only. Within the facilities themselves, access to paper and computer printouts are controlled by limited-access facilities and lockable containers. Access to electronic means is limited and controlled by computer password protection.

RETENTION AND DISPOSAL:

Time and attendance records are destroyed after Government Accounting Office audit or when 6 years old. Leave records are placed in Official Personnel File then destroyed 65 years after separation from Federal Service. Employee pay records are destroyed when 56 years old.

Records are destroyed by pulping, burning, shredding, erasure, or destruction of magnet media.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Payroll Division, National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755–6000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the National Security Agency/Central Security Service, Freedom of Information Act/Privacy Act Office, 9800 Savage Road, Suite 6248, Ft. George G. Meade, MD 20755–6248.

Written inquiries should contain the individual's full name, Social Security Number (SSN) and mailing address.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the National Security Agency/Central Security Service, Freedom of Information Act/Privacy Act Office, 9800 Savage Road, Suite 6248, Ft. George G. Meade, MD 20755–6248.

Written inquiries should contain the individual's full name, Social Security Number (SSN) and mailing address.

CONTESTING RECORD PROCEDURES:

The NSA/CSS rules for contesting contents and appealing initial determinations are published at 32 CFR part 322 or may be obtained by written request addressed to the National Security Agency/Central Security Service, Freedom of Information Act/Privacy Act Office, 9800 Savage Road, Suite 6248, Ft. George G. Meade, MD 20755–6248.

RECORD SOURCE CATEGORIES:

Forms, cards, requests and other documentation submitted by individuals, supervisors, Personnel File data, Time and Attendance File data, and other sources as appropriate and required.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Individual records in this file may be exempt pursuant to 5 U.S.C. 552a(k)(2), as applicable.

An exemption rule for this record system has been promulgated according to the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 322. For additional information contact the system manager.

[FR Doc. E9–13265 Filed 6–5–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2009–OS–0074]

Privacy Act of 1974; Systems of Records

AGENCY: National Security Agency/Central Security Service, DoD.

ACTION: Notice to add a system of records.

SUMMARY: The National Security Agency/Central Security Service proposes to add a system of records notices in its inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on July 8, 2009 unless comments are received which would result in a contrary determination.

ADDRESSES: Send comments to the National Security Agency/Central Security Service, Freedom of Information Act and Privacy Act Office, 9800 Savage Road, Suite 6248, Ft. George G. Meade, MD 20755–6248.

FOR FURTHER INFORMATION CONTACT: Ms. Anne Hill at (301) 688–6527.

SUPPLEMENTARY INFORMATION: The National Security Agency's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the Federal Register and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on June 1, 2009, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FT 6427).

Dated: June 1, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

GNSA 25

SYSTEM NAME:

NSA/CSS Travel Records.

SYSTEM LOCATION:

Primary location: National Security Agency/Central Security Service (NSA/CSS), 9800 Savage Road, Ft. George G. Meade, MD 20755–6000.

Decentralized segments: Defense Intelligence Agency (DIA) Headquarters and DIA field elements as authorized and appropriate. For official mailing address for any of the decentralized system locations, write to the National Security Agency/Central Security Service, Freedom of Information Act/Privacy Act Office, 9800 Savage Road, Ft. George G. Meade, MD 20755–6248.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All NSA/CSS and DIA civilian employees, military assignees, and dependents who perform travel, Temporary Duty (TDY) or Permanent Change of Station (PCS); public and private sector individuals traveling under invitational travel orders, and other DoD activities supported by DIA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to official travel of individuals, including, orders, travel vouchers, travel itineraries, transportation requests, claim data, travel charge card, Requests for Travel Authorization (RTA)/Expense Report, and direct deposit information. Records may contain individual's name, Social Security Number (SSN), organizational designator, office phone numbers and home address.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chapter 57, Travel, Transportation and Subsistence; 10 U.S.C. Chapter 157, Transportation; 37 U.S.C. Section 411, Travel and Transportation Allowances: Administrative Provisions; Chapters 300–304 of 41 CFR, the Federal Travel Regulations and E.O. 9397 (SSN).

PURPOSE(S):

Records are used in administering the travel program, managing and tracking funds, and accounting for employee status for pay and leave, while on travel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows: To Federal agency or private sector organizations employing the traveler for funds control, personnel administration, or program management purposes.

To banking establishments for the purpose of facilitating direct deposit and to confirm billing or expense data.

To Government and private sector entities to provide for or facilitate transportation, lodging, relocation or related travel services.

To Federal, State, and Local government agencies for taxing, audit, or oversight purposes.

To any entity or individual under contract with NSA/CSS for the purpose of providing travel-related services.

To any party, counsel, representative, and/or witness, in any legal proceeding, where pertinent, to which DoD is a party before a court or administrative body (including, but not limited to, the Equal Employment Opportunity Commission and Merit System Protection Board).

The DoD 'Blanket Routine Uses' published at the beginning of the NSA/CSS's compilation of record systems also apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

By name and/or Social Security Number (SSN).

SAFEGUARDS:

Buildings are secured by a series of guarded pedestrian gates and checkpoints. Access to facilities is limited to security-cleared personnel and escorted visitors only. Within the facilities themselves, access to paper and computer printouts are controlled by limited-access facilities and lockable containers. Access to electronic means is controlled by computer password protection.

RETENTION AND DISPOSAL:

Records are retained for 6 years then destroyed. Records are destroyed by pulping, burning, shredding, erasure or destruction of magnet medial.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Corporate Travel Service, National Security Agency/Central Security Service, 9800 Savage Road, Ft. George G. Meade, MD 20755–6000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if records about themselves are contained in this record system should address written inquiries to the National Security Agency/Central Security Service, Freedom of Information Act/Privacy Act Office, 9800 Savage Road, Suite 6248, Ft. George G. Meade, MD 20755–6248.

Written inquires should include individual's full name, address, and telephone number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the National Security Agency/Central Security Service, Freedom of Information Act/Privacy Act Office, 9800 Savage Road, Suite 6248, Ft. George G. Meade, MD 20755–6248.

Written inquires should include individual's full name, address, and telephone number.

CONTESTING RECORD PROCEDURES:

The NSA/CSS rules for contesting contents and appealing initial determinations are published at 32 CFR part 322 or may be obtained by written request addressed to the National Security Agency/Central Security Service, Freedom of Information Act/Privacy Act Office, Suite 6248, Ft. George G. Meade, MD 20755–6248.

RECORD SOURCE CATEGORIES:

Information is collected from the individual and the individual's supervisor, from the hiring activity's personnel office, and from travel and expense forms.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source. **Note:** When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

Records maintained solely for statistical research or program evaluation purposes and which are not used to make decisions on the rights, benefits, or entitlement of an individual except for census records which may be disclosed under 13 U.S.C. 8, may be exempt pursuant to 5 U.S.C. 552a(k)(4).

An exemption rule for this record system has been promulgated according to the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 322. For additional information contact the system manager.

[FR Doc. E9–13264 Filed 6–5–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2009–OS–0077]

Privacy Act of 1974; System of Records

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice to Amend a System of Records.

SUMMARY: The Defense Logistics Agency is proposing to amend a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The proposed action will be effective without further notice on July 8, 2009 unless comments are received which would result in a contrary determination.

ADDRESSES: Chief Privacy and FOIA Officer, Headquarters, Defense Logistics Agency, *Attn:* DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis Oleinick at (703) 767–6194.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency's system of record notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendment is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems reports.

Dated: June 2, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S500.10

SYSTEM NAME:

Personnel Security Files (August 11, 2006, 71 FR 46201).

CHANGES:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''All civilian employees, military personnel and contractors who have been the subject of a personnel security investigation pertaining to their qualifications and eligibility to occupy sensitive positions, perform sensitive duties, or for access to classified information.''

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Chief, Personnel Security Division, DLA Enterprise Support, Defense Logistics Agency, *Attn:* DES–SC, 8725 John J. Kingman Road, Stop 6220, Fort Belvoir, VA 22060–6221; and the Personnel Security Specialists of the DLA field activities. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, *Attn:* DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Requests should contain the subject individual's full name, Social Security Number (SSN), date and place of birth, current address, and telephone number.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, *Attn:* DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Requests should contain the subject individual's full name, Social Security Number(SSN), date and place of birth, current address, and telephone number.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format. The unsworn declaration statement must be signed and dated.

If executed within the United States, its territories, possessions, or commonwealths the statement must read: 'I declare under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).'

If executed outside the United States, its territories, possessions, or commonwealths the statement must read: 'I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).' ''

CONTESTING RECORD PROCEDURES:

Delete entry and replace with ''The DLA rules for accessing records, for contesting contents, and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the Privacy Act Office, Headquarters, Defense Logistics Agency, *Attn:* DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.''

* * * * *

S500.10

SYSTEM NAME:

Personnel Security Files.

SYSTEM LOCATION:

Public Safety Office, Headquarters, Defense Logistics Agency, 8725 John J. Kingman Road, Stop 6220, Fort Belvoir, VA 22060–6221 and Public Safety Offices of the Defense Logistics Agency Field Activities. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All civilian employees, military personnel and contractors who have been the subject of a personnel security investigation pertaining to their qualifications and eligibility to occupy sensitive positions, perform sensitive duties, or for access to classified information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number, home address and telephone number, and personal history statements; evidence of security eligibility determinations and security clearances granted to individuals; report of investigation conducted by investigative agencies and organizations; and certifications of security briefings and debriefings signed by individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; E.O. 10450, Security Requirements for Government Employment; E.O. 12958, Classified National Security Information; DoD Regulation 5200.2, DoD Personnel Security Program; and E.O. 9397 (SSN).

PURPOSE(S):

Records are used for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information. DLA Security Managers, supervisors, and management officials use the records to determine whether an individual is eligible to occupy a sensitive position and/or have been cleared for or granted access to classified information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD ''Blanket Routine Uses'' apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored on paper and/or electronic storage media.

RETRIEVABILITY:

Records are retrieved alphabetically by subject individual's name and Social Security Number (SSN).

SAFEGUARDS:

Access is limited to those individuals who require the records for the performance of their official duties. Paper records are maintained in buildings with controlled or monitored access. During non-duty hours, records are secured in locked or guarded buildings, locked offices, and/or locked or guarded cabinets. The electronic records system employs user identification and password or smart card technology protocols.

RETENTION AND DISPOSAL:

Records of security eligibility determinations, evidence of security clearances and related documents are retained as long as the person is employed or assigned to DLA. After the person leaves DLA, the reports are placed in an inactive file for two years, and then destroyed. Reports of investigations are destroyed 90 days after a security eligibility determination is made.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Personnel Security Division, DLA Enterprise Support, Defense Logistics Agency, *Attn:* DES–SC, 8725 John J. Kingman Road, Stop 6220, Fort Belvoir, VA 22060–6221; and the Personnel Security Specialists of the DLA field activities. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, *Attn:* DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Requests should contain the subject individual's full name, Social Security Number (SSN), date and place of birth, current address, and telephone number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, *Attn:* DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Requests should contain the subject individual's full name, Social Security Number (SSN), date and place of birth, current address, and telephone number.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format. The unsworn declaration statement must be signed and dated.

If executed within the United States, its territories, possessions, or commonwealths, the statement must read: ''I declare under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

If executed outside the United States, its territories, possessions, or commonwealths, the statement must read: ''I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents, and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the Privacy Act Office, Headquarters, Defense Logistics Agency, *Attn:* DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

RECORD SOURCE CATEGORIES:

Information is provided by the record subject or from investigative reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

An exemption rule for this system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(1), (2) and (3)(c) and (e) and published in 32 CFR part 323. For additional information contact the system manager.

[FR Doc. E9–13269 Filed 6–5–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2009–OS–0076]

Privacy Act of 1974; Systems of Records

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice to Alter a System of Records.

SUMMARY: The Defense Logistics Agency proposes to alter a system of records notice in its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on July 8, 2009 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Headquarters, Defense Logistics Agency, *Attn:* DP, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060–6221.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis Oleinick at (703) 767–6194.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system reports, as required by 5 U.S.C. 552a(r), of the Privacy Act of 1974, as amended, were submitted on June 1, 2009, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: June 1, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, DoD.

S500.20

SYSTEM NAME:

Defense Logistics Agency Criminal Incident Reporting System Records (January 22, 2009, 74 FR 4006).

CHANGES:

* * * * *

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Delete entry and replace with ''Parts of this system may be exempt pursuant to 5 U.S.C. 552a(k)(2) if the information is compiled and maintained by a component of the agency that performs as its principal function any activity pertaining to the enforcement of criminal laws.

An exemption rule for this system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(1), (2), and (3)(c) and (e) and is published at 32 CFR part 323. For more information contact the system manager.''

* * * * *

S500.20

SYSTEM NAME:

Defense Logistics Agency Criminal Incident Reporting System Records.

SYSTEM LOCATION:

Enterprise Data Center East, 8180 Green Meadows Drive, Lewis Center, OH 43035–9605. Records may also be maintained within the DLA Offices that use these records in the performance of their official duties located at Headquarters, Defense Logistics Agency, 8725 John J. Kingman Road, Fort Belvoir, VA 22060–6221 and the DLA Field Activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian and military personnel of DLA, contractor employees, and other persons who have committed or are suspected of having committed, any criminal act (felony or misdemeanor) or any violations of laws, regulations, or ethical standards on DLA controlled activities or facilities; or outside of those areas in cases where DLA is or may be a party of interest. Individuals or companies who purchase or seek to purchase excess or surplus personal property from the Department of Defense (DOD) where that property is either U.S. Mention List or Commerce Control List property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, address and telephone number, Reports of Preliminary Inquiry, Criminal Information Reports, Reports of Referral, Reports of Investigation, Police Incident Reports, Trade Security Controls Assessment Records, Reports of Post Sale Investigation, Crime Vulnerability Assessments, Response to Leads, Reports of Outreach, Reports of Corrective Action, Commander or Director's Reports of Corrective Action, invoices, sales contracts, messages, statements of witnesses, subjects, and victims, photographs, laboratory reports, data collection reports, and other related papers by DLA Investigators, Security Officers, Federal, State, and local law enforcement and investigative agencies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Omnibus Crime Control Act of 1994; Section 21, Internal Security Act of 1950 (Pub. L. 831, 81st Congress); DOD Directive 5105.22, Defense Logistics Agency (32 CFR part 359); DOD Directive 5105.42, Defense Security Service (32 CFR part 361); DOD Directive 7730.47, Defense Incident-Based Reporting System; DOD Instruction 2030.8, Trade Security Controls on DOD Excess and Surplus Personal Property; DOD Instruction 5240.4, Reporting of Counterintelligence and Criminal Violations; DOD Instruction 5505.2, Criminal Investigations of Fraud Offenses; 28 U.S.C. 534, Uniform Federal Crime Reporting Act; 18 U.S.C. 922, Brady Handgun Violence Prevention Act of 1994; 42 U.S.C. 10601,Victim Rights and Restitution Act of 1990; 10 U.S.C. 1562, Database on Domestic Violence Incidents and E.O. 9397 (SSN).

PURPOSE(S):

Information in this system is used by DLA Office of Investigations, DLA Offices of Public Safety, and the DLA Office of General Counsel personnel to monitor progress of cases and to develop non-personal statistical data on crime and criminal investigative support for the future. DLA General Counsel also uses data to review cases, determine proper legal action, and coordinate on all available remedies. Information is released to DLA managers who use the information to determine actions required to correct the causes of loss and to take appropriate action against DLA employees or contractors in cases of their involvement. Records are also used by DLA to monitor the progress of investigations, identify crime conducive conditions, and prepare crime vulnerability assessments/statistics.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DOD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To Federal, State, and local agencies having jurisdiction over or investigative interest in the substance of the investigation, for corrective action, debarment, or reporting purposes.

To Government contractors employing individuals who are subjects of an investigation.

To DLA contractors or vendors when the investigation pertains to a person they employ or to a product or service they provide to DOD when disclosure is necessary to accomplish or support corrective action.

The DOD ''Blanket Routine Uses'' also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic storage media.

RETRIEVABILITY:

Hardcopy records filed chronologically by DLA case number and cross-indexed to individual or file name. Automated records are retrievable by name of the individual or firm, DLA case number, DLA Field Activity number or activity code, or keyword.

SAFEGUARDS:

Physical entry is restricted by the use of guards, locks, and administrative procedures. Computer terminals are password controlled with system-generated, forced password-change protocols or also equipped with ''Smart Card'' technology that requires the insertion of an embedded identification card and entry of a personal identification number (PIN). In addition, computer screens lock after a preset period of inactivity with re-entry controlled by passwording. DCIRS is also password controlled. Access to the database is limited to those DLA personnel who require the records in the performance of their official duties. Employees are periodically briefed on their responsibilities regarding privacy information. All individuals granted access to DCIRS is to have taken Information Assurance and Privacy Act training. Records and computerized files are maintained in areas accessible only to the DLA OI, DLA Offices of Public

Safety, and the DLA General Counsel personnel.

RETENTION AND DISPOSAL:

Disposition pending. Until the National Archives and Records Administration has approved the retention and disposal of these records, treat them as permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Staff Director, DLA Office of Investigations, Headquarters, Defense Logistics Agency, 8725 John J. Kingman Road, Stop 2358, Fort Belvoir, VA 22060–6221.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, *Attn:* DGA, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060–6221.

Individual must provide full name, current address and telephone numbers.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, *Attn:* DGA, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060–6221.

Individual must provide full name, current address and telephone numbers.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents, and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the Privacy Act Office, Headquarters, Defense Logistics Agency, *Attn:* DGA, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060–6221.

RECORD SOURCE CATEGORIES:

Reports of Preliminary Inquiry, Criminal Information Reports, Reports of Referral, Reports of Investigation, Police Incident Reports, Trade Security Controls Assessment Records, Reports of Post Sale Investigation, Crime Vulnerability Assessments, Response to Leads, Reports of Outreach, Reports of Corrective Action, Commander or Director's Reports of Corrective Action, invoices, sales contracts, messages, statements of witnesses, subjects, and victims, photographs, laboratory reports, data collection reports, and other related papers, by DLA Investigators, Security Officers, Federal, State, and local law enforcement and investigative agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt pursuant to 5 U.S.C. 552a(k)(2) if the information is compiled and maintained by a component of the agency that performs as its principle function any activity pertaining to the enforcement of criminal laws.

An exemption rule for this system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(1), (2), and (3)(c) and (e) and is published at 32 CFR part 323. For more information contact the system manager.

[FR Doc. E9–13270 Filed 6–5–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2009–OS–0078]

Privacy Act of 1974; System of Records

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice to Amend a System of Records.

SUMMARY: The Defense Logistics Agency is proposing to amend a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The proposed action will be effective without further notice on July 8, 2009 unless comments are received which would result in a contrary determination.

ADDRESSES: Chief Privacy and FOIA Officer, Headquarters Defense Logistics Agency, *Attn:* DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis Oleinick at (703) 767–6194.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency's system of record notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendment is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems reports.

Dated: June 2, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S153.20

SYSTEM NAME:

Automated Listing of Eligibility and Clearances (ALEC) (June 4, 2007, 72 FR 30787).

CHANGES:

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, *Attn:* DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

''Inquiry should contain the individual's full name, Social Security Number, current address, and telephone number.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, *Attn:* DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Inquiry should contain the individual's full name, Social Security Number (SSN), current address, and telephone number.''

CONTESTING RECORD PROCEDURES:

Delete entry and replace with ''The DLA rules for accessing records, for contesting contents, and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the Privacy Act Office, Headquarters, Defense Logistics Agency, *Attn:* DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.''

* * * * *

S153.20

SYSTEM NAME:

Automated Listing of Eligibility and Clearances (ALEC).

SYSTEM LOCATION:

Defense Logistics Agency (DLA) Enterprise Data Center (EDC) in Columbus, OH, 43218–3990. HQ DLA, the DLA Field Activities, and the DLA Enterprise Support have on-line access

to the data concerning personnel under their jurisdiction.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All DLA civilian and military personnel who have been found eligible for employment in a sensitive position or eligible for or granted a security clearance or access to information classified in the interests of national security.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number (SSN), date of birth, place of birth (state), country, citizenship, job series, category, organization, servicing activity, employing activity, position sensitivity and determination date, type of investigation, investigating agency, date initiated and completed, periodic reinvestigation (PR) due date, eligibility and date, access and date, new investigation pending (type and date initiated), Non-Disclosure Agreement (NDA) executed and date, date of departure, and special accesses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

E.O. 10450, Security Requirements for Government Employment; E.O. 10865, Safeguarding Classified Information Within Industry; E.O. 12333, United States Intelligence Activities; E.O. 12958, Classified National Security Information; DoD 5200.2–R, DoD Personnel Security Program; and E.O. 9397 (SSN).

PURPOSE(S):

Records are collected and maintained for the purpose of centralizing eligibility and clearance information for use by all Defense Logistics Agency (DLA) Security Managers (listings are generated from ALEC in the form of a Record Activity Clearance Eligibility Listing (RACEL)). DLA Security Managers use the data to determine whether or not DLA employees are eligible for or occupy sensitive positions; whether they, or assigned military personnel, have been cleared for or granted access to classified information; and the level of such clearance or access, if granted.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To other Federal government agencies and Federal government contractors for the purpose of verifying clearance status and other clearance related information when necessary in the course of official business.

The DoD ''Blanket Routine Uses'' also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored on paper and/or electronic storage media.

RETRIEVABILITY:

Individual's name and/or Social Security Number (SSN).

SAFEGUARDS:

Records are maintained in a secure, limited access, and monitored work area. Physical entry by unauthorized persons is restricted by the use of locks, guards, and administrative procedures. Access to personal information is restricted to those who require the records in the performance of their official duties. Access to computer records is further restricted by the use of passwords. All personnel whose official duties require access to the information are trained in the proper safeguarding and use of the information and received Information Assurance and Privacy Act training. Paper records are marked ''FOUO–PRIVACY ACT PROTECTED DATA'' and stored in a locked container when not in use.

RETENTION AND DISPOSAL:

New listings are published monthly and prior listings are destroyed as soon as the new listings are verified, but in no case beyond 90 days. Electronic records are purged two years after the individual departs DLA.

SYSTEM MANAGER(S) AND ADDRESS:

Staff Director, Public Safety, DLA Enterprise Support, *Attn:* DES–S, 8725 John J. Kingman Road, Stop 6220, Ft. Belvoir, VA 22060–6220, and Security Managers of all DLA Field Activities. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, *Attn:* DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Inquiry should contain the individual's full name, Social Security Number, current address, and telephone number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, *Attn:* DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Inquiry should contain the individual's full name, Social Security Number, current address, and telephone number.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents, and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the Privacy Act Office, Headquarters, Defense Logistics Agency, *Attn:* DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

RECORD SOURCE CATEGORIES:

Certificates of clearance or types of personnel security investigations previously completed by the Office of Personnel Management, the Defense Security Service, the Federal Bureau of Investigation, investigative units of the Army, Navy, Air Force, or other Federal agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E9–13271 Filed 6–5–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability (NOA) of the Final Environmental Impact Statement (EIS) for Military Training Activities at Mākua Military Reservation (MMR), Hawaii

AGENCY: Department of the Army, DoD.

ACTION: Notice of Availability (NOA).

SUMMARY: The Army proposes to recommence conducting live-fire military training exercises at MMR, Oahu, Hawaii, for units assigned to the 25th Infantry Division (25th ID) and for other military components (Marine Corps, Army Reserves, and the Hawaii Army National Guard). Conducting live-fire exercises at the company level and below is critical to maintaining the readiness of all military units assigned or stationed in Hawaii. Training at the company level is particularly important because it is one of the key building blocks upon which the Army's progressive training doctrine depends. The Army has prepared the Final EIS

pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality regulations (40 CFR parts 1500–1508) and Environmental Analysis of Army Actions (32 CFR part 651).

DATES: The waiting period for the Final EIS will end 30 days after publication of the NOA in the **Federal Register** by the U.S. Environmental Protection Agency.

ADDRESSES: To obtain a copy of the Final EIS contact: U.S. Army Garrison, Hawaii, Attention: Public Affairs Office, 742 Santos Dumont, WAAF, Schofield Barracks, HI 96857.

FOR FURTHER INFORMATION CONTACT: U.S. Army Garrison, Hawaii, by phone at (808) 656–3152 or by facsimile at (808) 656–3162 during normal business hours Monday through Friday 9 a.m. to 5 p.m. h.s.t.

SUPPLEMENTARY INFORMATION: The EIS analyzes four alternatives to accomplish the proposed training in the State of Hawaii: MMR Alternative 1 (Reduced Capacity Use with Some Weapons Restrictions), MMR Alternative 2 (Full Capacity Use with Some Weapons Restrictions), MMR Alternative 3 (Full Capacity Use with Fewer Weapons Restrictions), and Pohakuloa Training Area (PTA) Alternative 4 (Full Capacity Use with Fewer Weapons Restrictions). Alternative 3 is the Army's Preferred Alternative. A No Action Alternative, under which nonlive-fire military training would be conducted at MMR, was also evaluated.

For all MMR alternatives (with the exception of No Action), MMRs range would be used for 242 training days per year. MMR Alternative 1 (Reduced Capacity Use) involves conducting up to 19 company-level Combined-Arms Live-Fire Exercises (CALFEXs) per year and 100 convoy live-fire exercises per year. MMR Alternatives 2 and 3 (Full Capacity Use) involve conducting up to 50 company-level CALFEXs per year and 200 convoy live-fire exercises per year. Weapon systems used for all live-fire training alternatives would be similar to those used during past live-fire training events at MMR. In addition to the current weapons systems, MMR Alternative 2 incorporates the use of small arms tracer ammunition. MMR Alternative 3 (Preferred Alternative) adds the following items: Tracer ammunition; inert, tube-launched, optically-tracked, wire-guided (TOW) 2 missiles; 2.75-inch rockets; and illumination munitions. Many of these munitions, however, will only be used when consistent with the Endangered Species Act Biological Opinion established for training at MMR. PTA Alternative 4 would encompass training similar to that in Alternative 3.

Some of the major potential impacts discussed in the Final EIS are associated with soil; surface water and groundwater quality; air quality; cultural sites; natural resources; endangered and threatened species; noise; recreational resources; wildfires; and the safety and transport of munitions through the Waianae community.

The Army has recommended several mitigation measures that would reduce the overall impacts associated with the Proposed Action. The final mitigation measures that the Army adopts will be published as part of the Record of Decision. In addition, for alternatives concerning MMR, the Army would phase in certain training activities and ammunition types as steps are taken to recover endangered species.

Copies of the Final EIS are available at the following libraries on the islands of Oahu and Hawaii: Hawaii State Library, 478 South King Street, Honolulu; Wahiawa Public Library, 820 California Avenue, Wahiawa; Waianae Public Library, 85–625 Farrington Highway, Waianae; Pearl City Public Library, 138 Waimano Home Road, Pearl City; Hilo Public Library, 300 Waianuenue Avenue, Hilo; Kailua-Kona Public Library, 75–138 Hualalai Road, Kailua-Kona; and the Thelma Parker Memorial Public and School Library, 67–1209 Mamalahoa Hwy., Kamuela.

An electronic version of the Final EIS is available for download at the following Web site: *http://www.garrison.hawaii.army.mil/makuaeis.*

Dated: May 29, 2009.

Addison D. Davis IV,

Deputy Assistant Secretary of the Army, Environment, Safety and Occupational Health.

[FR Doc. E9–13125 Filed 6–5–09; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID USN–2009–0015]

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Navy proposes to alter a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on July 8, 2009 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to Mrs. Miriam Brown-Lam, HEAD, FOIA/Privacy Act Policy Branch, the Department of the Navy, 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Brown-Lam (202) 685–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notice subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, has been published in the **Federal Register** and is available from the address above.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, were submitted on June 1, 2009, to the House Committee on Government Report, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individual,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: June 1, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N01754–2

SYSTEM NAME:

Navy/USMC Family Service Center Volunteers (April 28, 1999, 64 FR 22840).

CHANGES:

Change System ID to ''NM01754–2''.

SYSTEM NAME:

Delete entry and replace with ''DON Family Support Program Volunteers.''

SYSTEM LOCATION:

Delete entry and replace with ''Fleet and Family Support Centers and Marine Corps Community Services. Official mailing addresses for commands that have these offices are published in the Standard Navy Distribution List that is available at *http://doni.daps.dla.mil/sndl.aspx.''*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''Individuals who perform volunteer services for the Department of the Navy (DON) Family Support Program.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''File contains information such as name, home address, home telephone number, date of birth, age and number of children, experience, education, professional qualifications/skills, interests, hobbies, assignments, start and completion date of service and any other information essential for placing the volunteer in the most appropriate position in the DON Family Support Program.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 5041, Headquarters, Marine Corps; SECNAVINST 1754.1B, DON Family Support Program; and NAVMC DIR 1754.6, Marine Corps Family Team Building.''

PURPOSE(S):

Delete entry and replace with ''To define work setting placement, professional development requirements, mentor, coach, and supervise the performance of individuals who have volunteered to assist in the DON Family Support Program.''

* * * * *

STORAGE:

Delete entry and replace with ''Paper files and electronic storage media.''

RETRIEVABILITY:

Delete entry and replace with ''Name of volunteer.''

SAFEGUARDS:

Delete entry and replace with ''Password controlled system, file, and element access based on predefined need-to-know. Physical access to terminals, terminal rooms, buildings and activities' grounds are controlled by locked terminals and rooms, guards, personnel screening or visitor registers.''

RETENTION AND DISPOSAL:

Delete entry and replace with ''Records are retained for three years from the date the individual departs from the DON Family Support Program and then destroyed by shredding, burning, pulping, degaussing or erasing.''

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Policy Official: Commander, Navy Installations Command (N9), 716 Sicard Street, SE., Suite 1000, Washington Navy Yard, Washington, DC 20374–5140.

RECORD HOLDERS:

Fleet and Family Support Centers/Offices and Marine Corps Community Services. Official mailing addresses for commands that have these offices are published in the Standard Navy Distribution List that is available at *http://doni.daps.dla.mil/sndl.aspx.*

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the activity where they volunteer. Official mailing addresses for commands that have these offices are published in the Standard Navy Distribution List that is available at *http://doni.daps.dla.mil/sndl.aspx.*

Individuals should include their full name, dates of volunteer service and sign their request.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system should address written inquiries to the activity where they volunteer. Official mailing addresses for commands that have these offices are published in the Standard Navy Distribution List that is available at *http://doni.daps.dla.mil/sndl.aspx.*

Individuals should include their full name, dates of volunteer service and sign their request.''

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with ''Individual.''

* * * * *

NM01754–2

SYSTEM NAME:

DON Family Support Program Volunteers.

SYSTEM LOCATION:

Fleet and Family Support Centers and Marine Corps Community Services. Official mailing addresses for commands that have these offices are published in the Standard Navy Distribution List that is available at *http://doni.daps.dla.mil/sndl.aspx.*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who perform volunteer services for the Department of the Navy (DON) Family Support Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains information such as name, home address, home telephone number, date of birth, age and number of children, experience, education, professional qualifications/skills, interests, hobbies, assignments, start and completion date of service and any other information essential for placing the volunteer in the most appropriate position in the DON Family Support Program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 5041, Headquarters, Marine Corps; SECNAVINST 1754.1B, DON Family Support Program; and NAVMC DIR 1754.6, Marine Corps Family Team Building.

PURPOSE(S):

To define work setting placement, professional development requirements, mentor, coach, and supervise the performance of individuals who have volunteered to assist in the DON Family Support Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD ''Blanket Routine Uses'' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files and electronic storage media.

RETRIEVABILITY:

Name of volunteer.

SAFEGUARDS:

Password controlled system, file, and element access based on predefined need-to-know. Physical access to terminals, terminal rooms, buildings and activities' grounds are controlled by locked terminals and rooms, guards, personnel screening or visitor registers.

RETENTION AND DISPOSAL:

Records are retained for three years from the date the individual departs from the DON Family Support Program and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: Commander, Navy Installations Command (N9), 716 Sicard Street, SE., Suite 1000, Washington Navy Yard, Washington, DC 20374–5140.

RECORD HOLDERS:

Fleet and Family Support Centers/Offices and Marine Corps Community

Services. Official mailing addresses for commands that have these offices are published in the Standard Navy Distribution List that is available at *http://doni.daps.dla.mil/sndl.aspx.*

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the activity where they volunteer. Official mailing addresses for commands that have these offices are published in the Standard Navy Distribution List that is available at *http://doni.daps.dla.mil/sndl.aspx.*

Individuals should include their full name, dates of volunteer service and sign their request.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the activity where they volunteer. Official mailing addresses for commands that have these offices are published in the Standard Navy Distribution List that is available at *http://doni.daps.dla.mil/sndl.aspx.*

Individuals should include their full name, dates of volunteer service and sign their request.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E9–13266 Filed 6–5–09; 8:45 am]
BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID USN–2009–0016]

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to amend a system of records.

SUMMARY: The Department of the Navy is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on July 8, 2009 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Head of Naval Operations (DNS–36), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Ms. Miriam Brown-Lam (202) 685–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: June 1, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

NM01070–14

SYSTEM NAME:

Seabee Personnel and Readiness Management System (PRMS) (April 30, 2008, 73 FR 23429.

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with ''Personnel Information System for Training, Operations, and Logistics (PISTOL).''

* * * * *

NM01070–14

SYSTEM NAME:

Personnel Information System for Training, Operations, and Logistics (PISTOL).

SYSTEM LOCATION:

Naval Facilities Information Technology Center, 1000 23rd Avenue, Port Hueneme, CA 93043–1000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navy and Marine Corps military personnel assigned to units within the Naval Construction Forces and Navy personnel assigned to Amphibious Construction Battalions and Expeditionary Logistic Support Groups.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number (SSN), personnel and training records; identification of individual skill sets; and information concerning gear sizes/issuances.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 5041, Headquarters, Marine Corps; and E.O. 9397 (SSN).

PURPOSE(S):

To ensure readiness of Seabee personnel for deployment.

To develop and maintain unit recall and alpha rosters for entire units, companies, detachments, military teams, etc.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD ''Blanket Routine Uses'' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic storage media.

RETRIEVABILITY:

Records are retrieved by individual's name and Social Security Number (SSN).

SAFEGUARDS:

Access is provided on a ''need-to-know'' basis and to authorized personnel only. Records are maintained in controlled access rooms or areas. Data is limited to personnel training associated information. Computer terminal access is controlled by terminal identification, CAC cards and the password or similar system. Physical access to terminals is restricted to specifically authorized individuals. Password authorization, assignment and monitoring are the responsibilities of the functional managers.

RETENTION AND DISPOSAL:

Records are retained for 20 years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Naval Facilities Information Technology Center, 1000 23rd Avenue, Port Hueneme, CA 93043–1000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, Naval Facilities Information Technology Center, 1000 23rd Avenue, Port Hueneme, CA 93043–1000.

The request should be signed and contain individual's full name and Social Security Number (SSN).

RECORD ACCESS PROCEDURES:

Individuals seeking to access information about themselves contained in this system should address written inquiries to Director, Naval Facilities Information Technology Center, 1000 23rd Avenue, Port Hueneme, CA 93043–1000.

The request should be signed and contain the individual's full name and Social Security Number (SSN).

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual, military personnel file, command personnel, and electronic training jacket.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E9–13267 Filed 6–5–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID USN–2009–0016]

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to Amend a System of Records.

SUMMARY: The Department of the Navy is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on July 8, 2009 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Head of Naval Operations (DNS–36), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Ms. Miriam Brown-Lam (202) 685–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: June 1, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

NM01070–14

SYSTEM NAME:

Seabee Personnel and Readiness Management System (PRMS) (April 30, 2008, 73 FR 23429.

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with ''Personnel Information System for Training, Operations, and Logistics (PISTOL).''

* * * * *

NM01070–14

SYSTEM NAME:

Personnel Information System for Training, Operations, and Logistics (PISTOL).

SYSTEM LOCATION:

Naval Facilities Information Technology Center, 1000 23rd Avenue, Port Hueneme, CA 93043–1000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navy and Marine Corps military personnel assigned to units within the Naval Construction Forces and Navy personnel assigned to Amphibious Construction Battalions and Expeditionary Logistic Support Groups.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number (SSN), personnel and training records; identification of individual skill sets; and information concerning gear sizes/issuances.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 5041, Headquarters, Marine Corps; and E.O. 9397 (SSN).

PURPOSE(S):

To ensure readiness of Seabee personnel for deployment.

To develop and maintain unit recall and alpha rosters for entire units, companies, detachments, military teams, etc.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD ''Blanket Routine Uses'' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic storage media.

RETRIEVABILITY:

Records are retrieved by individual's name and Social Security Number (SSN).

SAFEGUARDS:

Access is provided on a ''need-to-know'' basis and to authorized personnel only. Records are maintained in controlled access rooms or areas. Data is limited to personnel training associated information. Computer terminal access is controlled by terminal identification, CAC cards and the password or similar system. Physical access to terminals is restricted to specifically authorized individuals. Password authorization, assignment and monitoring are the responsibility of the functional managers.

RETENTION AND DISPOSAL:

Records are retained for 20 years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Naval Facilities Information Technology Center, 1000 23rd Avenue, Port Hueneme, CA 93043–1000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, Naval Facilities Information Technology Center, 1000 23rd Avenue, Port Hueneme, CA 93043–1000.

The request should be signed and contain individual's full name and Social Security Number (SSN).

RECORD ACCESS PROCEDURES:

Individuals seeking to access information about themselves contained in this system should address written inquiries to Director, Naval Facilities Information Technology Center, 1000 23rd Avenue, Port Hueneme, CA 93043–1000.

The request should be signed and contain individual's full name and Social Security Number (SSN).

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual, military personnel file, command personnel, and electronic training jacket.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E9–13268 Filed 6–5–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by July 1, 2009. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before August 7, 2009.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget; 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, or by e-mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment.

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 respondents, including through the use of information technology.

Dated: June 2, 2009.

Angela C. Arrington,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Office of Special Education and Rehabilitative Services

Type of Review: New.

Title: Needs Assessment and Workplan Guide for the Technical Assistance and Continuing Education (TACE) Program.

Abstract: Technical Assistance and Continuing Education Centers are required to conduct needs assessment of state vocational rehabilitation agencies and their partners in their regions, and create workplans to address the needs they identify. This guide establishes the requirements for, and information to be reported about, those activities.

Additional Information: The U.S. Department of Education's Office of Special Education and Rehabilitative Services (OSERS) funded ten new regional TACE Centers between September and December 2008 that will provide technical assistance and continuing education to State agencies that provide vocational rehabilitation (VR) and independent living (IL) services to individuals with disabilities. OSERS wants these centers to be fully operational before the beginning of FY 2010, particularly because the agencies to which they provide technical assistance and continuing education received significant funds under the American Recovery and Reinvestment Act (ARRA). In addition to seeking typical technical assistance related to VR and IL, agencies will seek assistance in how to use their ARRA funds and are likely to subcontract with TACE Centers for additional services.

Frequency: Three times per year (includes updates).

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 10.

Burden Hours: 900.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 4065. When you access the information collection, click on ''Download Attachments '' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address

ICDocketMgr@ed.gov or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E9–13338 Filed 6–5–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: U.S. Department of Energy.

ACTION: Submission for Office of Management and Budget (OMB) review; comment request.

SUMMARY: The Department of Energy (DOE) has submitted an information collection request to the OMB for extension under the provisions of the Paperwork Reduction Act of 1995. The information collection requests a three-year extension of its Financial Assistance Information Collection, OMB Control Number 1910–0400. This information collection request covers information necessary to administer and manage DOE's financial assistance programs.

DATES: Comments regarding this collection must be received on or before July 8, 2009. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4650.

ADDRESSES: Written comments should be sent to the following: Denise Clarke, Procurement Analyst, MA–612/L'Enfant Plaza Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC, 20585–1615, *deniset.clarke@hq.doe.gov*.

FOR FURTHER INFORMATION CONTACT: Denise Clarke at the above address, or by telephone at (202) 287–1748.

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) OMB No. 1910–0400 (Renewal); (2) Information Collection Request Title: Financial Assistance Information Collection (3) Purpose: This package contains information collections necessary for the solicitation, award, administration, and closeout of grants and cooperative agreements (4) Estimated Number of Respondents 59,217 (5) Estimated Total Burden Hours: 926,022 (6) Number of Collections: The information collection request contains 16 information and/or recordkeeping requirements.

Statutory Authority: Federal Grant and Cooperative Agreement Act, 31 U.S.C. 6301–6308.

Issued in Washington, DC on June 1, 2009.

Edward R. Simpson,

Director, Office of Procurement and Assistance Management, Department of Energy.

[FR Doc. E9–13321 Filed 6–5–09; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC09–576–001]

Commission Information Collection Activities (Ferc–576); Comment Request; Submitted for OMB Review

June 1, 2009.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice.

SUMMARY: In compliance with the requirements of section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507, the Federal Energy Regulatory Commission (Commission or FERC) has submitted the information collection described below to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission received no comments in response to the **Federal Register** notice (74 FR 6273, 2/6/09) and has made this notation in its submission to OMB.

DATES: Comments on the collection of information are due by July 8, 2009.

ADDRESSES: Address comments on the collection of information to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission Desk Officer. Comments to OMB should be filed electronically, c/o *oira_submission@omb.eop.gov* and include OMB Control No. 1902–0004 as a point of reference. The OMB Desk Officer may be reached by telephone at 202–395–4638.

A copy of the comments should also be sent to the Federal Energy Regulatory Commission and should refer to Docket No. IC09–576–001. Comments may be filed either electronically or in paper format. Those persons filing electronically do not need to make a paper filing. Documents filed electronically via the Internet must be prepared in an acceptable filing format and in compliance with the FERC submission guidelines. Complete filing instructions and acceptable filing formats are available at *http://www.ferc.gov/help/submission-guide/electronic-media.asp*. To file the document electronically, access the Commission's Web site and click on Documents & Filing, E-Filing (*http://www.ferc.gov/docs-filing/efiling.asp*), and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments.

For paper filings, an original and 2 copies of the comments should be submitted to the Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426, and should refer to Docket No. IC09–576–001.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the ''eLibrary'' link. For user assistance, contact *ferconlinesupport@ferc.gov* or toll-free at (866) 208–3676 or for TTY, contact (202) 502–8659.

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by telephone at (202) 502–8663, by fax at (202) 273–0873, and by e-mail at *ellen.brown@ferc.gov*.

SUPPLEMENTARY INFORMATION: The FERC is requesting comments on the FERC–576 (Report of Service Interruptions; OMB Clearance No. 1902–0004). Under the Natural Gas Act (NGA) (Pub. L. 75 688) (15 U.S.C. 717–717w), a natural gas company must obtain Commission authorization to engage in the transportation, sale or exchange of natural gas in interstate commerce. The Commission is also empowered to oversee continuity of service in the transportation of natural gas in interstate commerce. The information collected under FERC–576 notifies the Commission of: (1) Serious interruptions to service, and (2) damage to jurisdictional natural gas facilities due to natural disaster or terrorist activity, that creates the potential for serious delivery problems on the pipeline's own system or the pipeline grid.

Filings in accordance with the provisions of section 4(d) of the Natural Gas Act (NGA) (15 U.S.C. 717c) are to contain information necessary to advise the Commission when a change in service has occurred. Under section 7(d) of the NGA (15 U.S.C. 717f), the Commission may issue a temporary certificate in cases of emergency to assure maintenance of adequate service or to serve particular customers, without notice or hearing.

The FERC–576 initial reports are submitted by e-mail to *pipelineoutage@ferc.gov* or by facsimile transmission. Title 18 Code of Federal Regulations (CFR) section 260.9(b) requires that a report of service interruption or damage to natural gas facilities state the: (1) Location of the service interruption or damage to natural gas pipeline or storage facilities; (2) nature of any damage to pipeline or storage facilities; (3) specific identification of the facilities damaged; (4) time the service interruption or damage to the facilities occurred; (5) customers affected by the service interruption or damage to the facilities; (6) emergency actions taken to maintain service; and (7) company contact and telephone number. (In response to these reports, the Commission may contact the pipeline to determine the estimated duration of the outage, and if necessary, authorize emergency transportation or re-construction of facilities to alleviate the problem.) The company also reports to the Commission when pipeline throughput or storage deliverability has been restored.

Failure by the Commission to collect this information would mean that it is unable to monitor and evaluate our regulated energy infrastructure, and remain apprised of the critical status of operations and reliability of interstate pipelines.

In coordination with the U.S. Department of Transportation (DOT), FERC has reviewed the pipeline damage reporting requirements. FERC and DOT have concluded that there is minimal duplication between the data collected here and that collected by DOT under 49 CFR 191. The intent, timing, and the information collected serve different needs, and a common reporting form is not appropriate.

Action: The Commission is requesting a three-year extension of the current expiration date, with no change to the existing requirements.

Burden Statement: Annual reporting burden for this collection is estimated as:

FERC Data Collection—FERCt–576	Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours[1] (1) × (2) × (3)
Submittal to FERC of the original e-mail and follow-up e-mail[2]	40	[2] 2	1	[2] 80
Submittal of damage report to state commissions	40	1	0.25	10
Submittal to FERC of copy of DOT incident report	40	1	0.25	10

The estimated cost burden to respondents[3] is $6,307 (100 hours × $63.07 per hour = $6,307).

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization, rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–13236 Filed 6–5–09; 8:45 am]

BILLING CODE 6717–01–P

[1] The burden and cost figures may not be exact, due to rounding. For these calculations, the number of hours an employee works each year is 2,080.

[2] This includes the original e-mail, plus the follow-up e-mail (sent when throughput or storage deliverability has been restored).

[3] Based on the Bureau of Labor Statistics' figures for wage estimates within 'NAICS 486200, Pipeline Transportation of Natural Gas' (posted at *http://www.bls.gov/oes/2008/may/naics4_486200.htm*, for May 2008), the average hourly cost being used for these calculations is $63.07. The total estimated cost burden provided here ($6,307) updates and replaces the estimate (of $6,076.15) provided in the 60-day Notice issued on 1/29/09.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. P–516–459]

South Carolina Electric & Gas Company; Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

May 29, 2009.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Applications:* New Major License.

b. *Project No.:* P–516–459.

c. *Date Filed:* August 28, 2008.

d. *Applicant:* South Carolina Electric & Gas Company.

e. *Name of Project:* Saluda Hydroelectric Project.

f. *Location:* On the Saluda River in Richland, Lexington, Saluda, and Newberry counties, South Carolina. The

project does not occupy any Federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 USC 791(a)–825(r).

h. *Applicant Contact:* William R. Argentieri, Manager-Civil Engineering, South Carolina Electric & Gas Company, 111 Research Drive, Columbia, South Carolina 29203, (803) 217–9162.

i. *FERC Contact:* Lee Emery at (202) 502–8379, or *lee.emery@ferc.gov*.

j. *Deadline for filing motions to intervene and protests:* 60 days from the issuance date of this notice, or July 29, 2009.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Motions to intervene and protests may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link. For a simpler method of submitting text only comments, click on ''Quick Comment.''

k. This application has been accepted, but is not ready for environmental analysis at this time.

l. The existing 207.3-megawatt Saluda Project consists of a single development with the following features: (1) A 7,800-foot-long, 213-foot-high earth-fill dam (Saluda dam), with South Carolina State Highway 6 (Highway 6) running along the top of the dam; (2) a dike that extends 2,550 feet from the north end of the dam, running parallel with Highway 6; (3) a 2,900-foot-long emergency spillway, with six steel Taintor gates, that is located 500 feet from the south end of Saluda dam, and a spillway channel that reconnects with the Saluda River about 0.75 miles downstream from the Saluda powerhouse; (4) a 2,300-foot-long, 213-foot-high roller compacted concrete backup dam located along the downstream toe of the Saluda dam, with (i) a crest elevation of 372.0 feet North American Vertical Datum of 1988 (NAVD88),[1] and (ii) rock fill embankment sections on the north and south ends of the backup dam, having a combined length of 5,700 feet; (5) a 41-mile-long, 50,900-acre reservoir (Lake Murray) at a full pool elevation of 358.5 feet NAVD88, with a total usable storage of approximately 635,000 acre-feet; (6) five 223-foot-high intake towers and associated penstocks; (7) a concrete and brick powerhouse containing four vertical Francis turbine generating units (three at 32.5 MW and one at 42.3 MW), and a fifth vertical Francis turbine generating unit (67.5 MW), which is enclosed in a weather-tight housing located on a concrete deck attached to the south end of the main powerhouse; (8) a 150-foot-long tailrace; and (9) appurtenant facilities. There is no transmission line or bypassed reach associated with the project.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

All filings must: (1) Bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–13222 Filed 6–5–09; 8:45 am]

BILLING CODE P

[1] The license application contains documents that provide elevations based on NAVD88 datum or based on Plant Datum. To convert from Plant Datum to NAVD88 datum, subtract 1.5 feet.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12628–002]

The City of Nashua, IA; Notice Soliciting Scoping Comments

May 29, 2009.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original Minor License.

b. *Project No.:* 12628–002.

c. *Date Filed:* January 13, 2009.

d. *Applicant:* The City of Nashua, Iowa.

e. *Name of Project:* Cedar Lake Dam Hydroelectric Project.

f. *Location:* The project would be located at the existing Cedar Lake Dam, on the Cedar River, in Chickasaw County, Iowa. The project would not occupy any Federal land.

g. *Filed Pursuant to:* Federal Power Act 16 USC 791 (a)-825(r).

h. *Applicant Contact:* Ms. Rebecca Neal, The City of Nashua, 402 Main Street, Nashua, IA 50658; (641) 435–4156.

i. *FERC Contact:* Michael Watts, *Michael.Watts@ferc.gov*, (202) 502–6123.

j. *Deadline for Filing Scoping Comments:* June 29, 2009.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service

list for the project. Further, if an intervenor files comments or documents with the Commission relating to the

merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Scoping comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov/docs-filing/ferconline.asp*) under the ''e-filing'' link. For a simpler method of submitting text only comments, click on ''Quick Comment.''

k. This application is not ready for environmental analysis at this time.

l. The existing dam and integral powerhouse are owned by the City of Nashua and were constructed in 1917 and used for power generation until 1965. The City is proposing to rehabilitate the project and install new turbine generators and associated equipment. The proposed project would consist of: (1) An existing 15.5-foot-high concrete dam with a 258-foot-long spillway equipped with four 6-foot-high taintor gates, a 6-foot-high control gate, and three 4-foot-high flashboards; (2) an existing 405-acre reservoir with a normal full pond elevation of 960.1 feet above mean sea level; (3) an existing 50-foot-wide concrete intake structure connected to; (4) an existing powerhouse to contain four new turbine generating units with a total installed capacity of 800 kilowatts; (5) a new 75-foot-long, 13.8-kilovolt overhead transmission line; and (6) appurtenant facilities. The proposed project would generate an estimated average annual generation of 3,285 megawatt hours. The project would operate in a run-of-river mode.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to address the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is available for inspection and reproduction at the address in Item H above.

n. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. Scoping Process.

The Commission staff intends to prepare a single Environmental Assessment (EA) for the Cedar Lake Dam Hydroelectric Project in accordance with the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed action.

Commission staff does not propose to conduct any on-site scoping meetings at this time. Instead, we are soliciting comments, recommendations, and information, on the Scoping Document (SD) issued on May 29, 2009.

Copies of the SD outlining the subject areas to be addressed in the EA were distributed to the parties on the Commission's mailing list and the applicant's distribution list. Copies of the SD may be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call 1–866–208–3676 or for TTY, (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–13228 Filed 6–5–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP09–417–000]

Transcontinental Gas Pipe Line Company, LLC; Notice of Application

May 29, 2009.

Take notice that on May 22, 2009, Transcontinental Gas Pipe Line Company, LLC (Transco), Post Office Box 1396, Houston, Texas 77251, filed with the Federal Energy Regulatory Commission (Commission) an abbreviated application pursuant to section 7(c) of the Natural Gas Act (NGA), as amended, and part 157 of the Commission's regulations for authorization to acquire and convert to natural gas use an existing pipeline and to construct and operate certain pipeline facilities that would enable Transco to provide 250,000 dekatherms per day of natural gas transportation service to the Hess Corporation (''Hess'') and Bayonne Energy Center, LLC (BEC). The proposed facilities, identified as the Bayonne Delivery Lateral Project, would extend from Transco's mainline in Essex County, New Jersey to the proposed Bayonne Energy Center, an electric power plant in Bayonne, Hudson County, New Jersey.

Specifically, Transco seeks authority to: construct approximately 0.83 mile of 20-inch pipeline and appurtenant facilities to connect Transco's mainline to an idle, 14-inch petroleum products pipeline owned by Hess; acquire from Hess and convert to natural gas use 5.41 miles of the 14-inch petroleum products pipeline extending from the terminus of the new 20-inch pipeline to the Bayonne Energy Center; construct a new delivery meter station and appurtenant facilities at the Bayonne Energy Center and, operate the facilities as the Bayonne Delivery Lateral.

Transco estimates that the Bayonne Delivery Lateral Project facilities will cost approximately $17.2 million. Firm transportation service would be offered pursuant to a new proposed Rate Schedule FDLS and Transco's blanket certificate under Part 284(G) of the Commission's regulations.

Any questions concerning this application should be directed to Marg Camardello, Manager, Tariffs & Certificates, P.O. Box 1396, Houston, Texas 77251, (713) 215–3380 (phone). Information can also be requested via a toll free number at (866) 455–9103 or via e-mail at *PipelineExpansion@williams.com.* (toll free).

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''e-Library'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at

FERCOnlineSupport@ferc.gov or call toll-free, (866) 208–3676, or for TTY, (202) 502–8659.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Protests and interventions may be filed electronically via the Internet in lieu of paper; see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: June 19, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–13223 Filed 6–5–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP09–411–000]

Dominion Transmission, Inc.; Notice of Application

June 1, 2009.

Take notice that on May 15, 2009, Dominion Transmission, Inc. (DTI), 120 Tredegar Street, Richmond, Virginia, 23219, filed in the above referenced docket an abbreviated application for a Certificate of Public Convenience and Necessity to increase the certified storage pool pressure and the working gas capacity of the Sharon Storage Complex located in Potter County, Pennsylvania. DIT is not seeking authorization to construct any new facilities. The increase on pressure that DIT proposes will be from 940 psig to 1,200 psig in the Sharon Storage Complex, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application may be directed to Matthew Bley, Manager, Gas Transmission Certificates, Dominion Transmission, Inc., 701 East Cary Street, Richmond, VA 23219, at (804)–771–4399 or at *Matthew.R.Bley@dom.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify Federal and State agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all Federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be

placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Comment Date: June 22, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–13239 Filed 6–5–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13434–000]

Klamath Irrigation District; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

June 1, 2009.

On April 23, 2009, Klamath Irrigation District filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the C Drop Hydroelectric Project (project), to be located at the existing diversion structure of the former Enterprise Hydroelectric Plant in Klamath County, Oregon. The diversion structure of the Enterprise Plant, which burned and was taken out of service approximately 25 years ago, is located approximately 8 miles below the origin of the A canal on Upper Klamath Lake, a tributary of the Klamath River. The proposed project would utilize some of the facilities of the former Enterprise Plant, and construct new facilities where needed. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of: (1) An existing 14-foot-wide intake structure/bridge on the C canal with upgrades to the rack and gate; (2) an existing forebay with modifications consisting of new gates, concrete floors, walls, support, and access platform to direct water flow to one of three places: (a) Through a 20-foot-wide turbine isolation roller gate into the powerhouse turbine and back into the C canal; (b) through a 10-foot-wide bypass roller gate; or (c) over any or all of the three 9-foot-wide automatic trip gates to the bypass; (3) an existing powerhouse with modifications including a new 20-foot-long, 30-foot-wide, 20-foot-high pre-manufactured metal building covering the powerhouse; (4) a vertical Kaplan turbine with a maximum hydraulic capacity of 550 cubic-foot-per-second; (5) a 900-kilowatt synchronous generator; (6) a 12.47-kilovolt, 150-foot-long transmission line; and (7) appurtenant facilities. The proposed C Drop project would have an average annual generation of 2,900 megawatt-hours.

Applicant Contact: Ted Sorenson, P.E., Sorenson Engineering, 5203 South 11th East, Idaho Falls, ID 83404; *phone:* (208) 522–8069.

FERC Contact: Gaylord Hoisington, (202) 502–6032.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13434) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–13238 Filed 6–5–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13365–000]

City of Angoon; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

June 1, 2009.

On February 5, 2009 and supplemented on May 14, 2009, the City of Angoon filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Scenery Lake Hydroelectric Project located on Scenery Lake and Scenery Creek, near the town of Petersburg, Alaska. The project would be located within the Tongass National Forest, with a portion of the transmission line crossing the state of Alaska and city of Petersburg's lands. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of: (1) A 120-foot-high concrete arch dam with spillway impounding Scenery Lake having a surface area of 520 to 820 acres and a storage capacity of 58,000 to 80,000 acre-feet; (2) a lake tap or siphon with fish screen; (3) a 13,000-foot-long by 8-foot-diameter power conduit; (4) a powerhouse containing two to four new generating units having an installed capacity of 40 megawatts; (5) a proposed 29-mile-long, 69- and 138-kilovolt transmission line; and (6) appurtenant facilities. The proposed Scenery Lake Project would have an average annual generation of 80 gigawatt-hours.

Applicant Contact: Albert Howard, Mayor, City of Angoon, P.O. Box 189, Angoon, AK 99820; phone: (907) 788–3653.

FERC Contact: Gina Krump, (202) 502–6704, *gina.krump@ferc.gov.*

Deadline for filing comments, motions to intervene, competing applications

(without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13365) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–13237 Filed 6–5–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

May 28, 2009.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG09–44–000.
Applicants: Lost Lakes Wind Farm LLC.
Description: Notice of Self Certification of Exempt Wholesale Generator, Status of Lost Lakes Wind Farm LLC.
Filed Date: 05/27/2009.
Accession Number: 20090527–5107.
Comment Date: 5 p.m. Eastern Time on Wednesday, June 17, 2009.

Docket Numbers: EG09–45–000.
Applicants: Blue Canyon Windpower V LLC.
Description: Notice of Self Certification of Exempt Wholesale Generator, Status of Blue Canyon Windpower V LLC.
Filed Date: 05/27/2009.
Accession Number: 20090527–5108.
Comment Date: 5 p.m. Eastern Time on Wednesday, June 17, 2009.

Docket Numbers: EG09–46–000.
Applicants: Lost Creek Wind, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator of Lost Creek Wind, LLC.
Filed Date: 05/27/2009.
Accession Number: 20090527–5115.
Comment Date: 5 p.m. Eastern Time on Wednesday, June 17, 2009.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER08–1109–001.
Applicants: Maine Public Service Company.
Description: Maine Public Service Company Submits for Filing a Settlement Agreement.
Filed Date: 05/20/2009.
Accession Number: 20090520–5125.
Comment Date: 5 p.m. Eastern Time on Wednesday, June 10, 2009.

Docket Numbers: ER09–874–001.
Applicants: Discount Power, Inc.
Description: Discount Power, Inc submits the Second Amended Petition for Acceptance of Initial Rate Schedule, Waivers and Blanket Authority.
Filed Date: 05/26/2009.
Accession Number: 20090527–0046.
Comment Date: 5 p.m. Eastern Time on Tuesday, June 16, 2009.

Docket Numbers: ER09–952–001.
Applicants: Dayton Power and Light Company.
Description: Duke Energy Corporation submits the Supplemental IA to incorporate revisions to the headers and footers of the IA as suggested by Commission Staff, *etc.*
Filed Date: 05/27/2009.
Accession Number: 20090528–0062.
Comment Date: 5 p.m. Eastern Time on Wednesday, June 17, 2009.

Docket Numbers: ER09–1097–001.
Applicants: Public Service Company of New Mexico.
Description: Public Service Company of New Mexico submits Service Agreement 334 to its FERC Electric Tariff, Second Revised Volume 6.
Filed Date: 05/12/2009.
Accession Number: 20090513–0161.
Comment Date: 5 p.m. Eastern Time on Tuesday, June 02, 2009.

Docket Numbers: ER09–1132–000.
Applicants: Palmco Power NJ, LLC.
Description: Palmco Power NJ, LLC submits the Amendment for the Petition for Acceptance of Initial Tariff, Waivers and Blanket Authority & requesting acceptance of FERC Electric Tariff Original Volume 1, *etc. et al.*
Filed Date: 05/27/2009.
Accession Number: 20090528–0063.
Comment Date: 5 p.m. Eastern Time on Wednesday, June 17, 2009.

Docket Numbers: ER09–1133–000.
Applicants: Palmco Power PA, LLC.
Description: Palmco Power PA, LLC submits the Amendment for the Petition for Acceptance of Initial Tariff, Waivers and Blanket Authority, *etc.*
Filed Date: 05/27/2009.
Accession Number: 20090528–0060.
Comment Date: 5 p.m. Eastern Time on Wednesday, June 17, 2009.

Docket Numbers: ER09–1194–000.
Applicants: Palmco Power NJ, LLC.
Description: Palmco Power NJ, LLC submits the Amendment for the Petition for Acceptance of Initial Tariff, Waivers and Blanket Authority & requesting acceptance of FERC Electric Tariff Original Volume 1, *etc.*
Filed Date: 05/27/2009.
Accession Number: 20090528–0063.
Comment Date: 5 p.m. Eastern Time on Wednesday, June 17, 2009.

Docket Numbers: ER09–1195–000.
Applicants: Palmco Power PA, LLC.
Description: Palmco Power PA, LLC submits the Amendment for the Petition for Acceptance of Initial Tariff, Waivers and Blanket Authority, *etc.*
Filed Date: 05/27/2009.
Accession Number: 20090528–0060.
Comment Date: 5 p.m. Eastern Time on Wednesday, June 17, 2009.

Docket Numbers: ER09–1196–000.
Applicants: Lost Creek Wind, LLC.
Description: Lost Creek Wind, LLC submits application for accepting initial tariff, waiving regulations, and granting blanket approvals.
Filed Date: 05/27/2009.
Accession Number: 20090528–0220.
Comment Date: 5 p.m. Eastern Time on Wednesday, June 17, 2009.

Docket Numbers: ER09–1197–000.
Applicants: American Electric Power Service Corporation.
Description: American Electric Power Service Corp submits the seventeenth revised Interconnection and Local Delivery Service Agreement.
Filed Date: 05/26/2009.
Accession Number: 20090527–0047.
Comment Date: 5 p.m. Eastern Time on Tuesday, June 16, 2009.

Docket Numbers: ER09–1198–000.
Applicants: American Electric Power Service Corporation.
Description: Notice of Annual Update of Formula Rate of American Electric Power Service Corporation.
Filed Date: 05/26/2009.
Accession Number: 20090526–5302.
Comment Date: 5 p.m. Eastern Time on Tuesday, June 16, 2009.

Docket Numbers: ER09–1201–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc.

submits an executed Amended and Restates Large Generator Interconnection Agreement among the Midwest ISO, *et al.* limited liability corporation, *etc.*

Filed Date: 05/27/2009.

Accession Number: 20090528–0059.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 17, 2009.

Take notice that the Commission received the following open access transmission tariff filings:

Docket Numbers: OA09–29–000.

Applicants: Avista Corporation.

Description: Avista Corporation's Informational Filing of Operational Assessments and Distributions as Required by Order Nos. 890 and 890–A.

Filed Date: 05/26/2009.

Accession Number: 20090526–5163.

Comment Date: 5 p.m. Eastern Time on Tuesday, June 16, 2009.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RD09–7–000.

Applicants: North American Electric Reliability Corporation.

Description: Petition of the North American Electric Reliability Corporation for Approval of Version 2 Critical Infrastructure Protection Standards.

Filed Date: 05/22/2009.

Accession Number: 20090522–5150.

Comment Date: 5 p.m. Eastern Time on Monday, June 29, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. 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. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9–13330 Filed 6–5–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Southwestern Power Administration

White River Minimum Flows—Draft Addendum to Final Determination of Federal and Non-Federal Hydropower Impacts

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of public review and comment.

SUMMARY: Southwestern Power Administration (Southwestern) has developed a draft addendum to its January 2009 Final Determination Report concerning the Federal and non-Federal hydropower impacts of the White River Minimum Flows project. The draft addendum documents proposed changes to Southwestern's final determination. The proposed changes include: (1) Accounting for the impacts that the increase in average pool elevation has on the operation of the Federal Bull Shoals and Norfork projects, and (2) the inclusion of an additional discount rate source to be used by Southwestern in determination of the present value of the losses to both Federal projects and Federal Energy Regulatory Commission (FERC) Project No. 2221.

Assuming a January 1, 2011, date of implementation for the White River Minimum Flows project and current values for the specified parameters, Southwestern's modified final determination results in a present value of $22,340,800 for the estimated future lifetime replacement costs of the electrical energy and capacity at FERC Project No. 2221. Southwestern's modified final determination results in a present value of $60,851,800 for the estimated future lifetime replacement costs of the electrical energy and capacity for Federal hydropower.

DATES: The consultation and comment period will begin on the date of publication of this **Federal Register** notice and will end on July 8, 2009.

ADDRESSES: Written comments on Southwestern's draft addendum to its final determination should be submitted to George Robbins, Director, Division of Resources and Rates, Southwestern Power Administration, U.S. Department of Energy, One West Third Street, Tulsa, Oklahoma 74103, or e-mail *george.robbins@swpa.gov.* Comments will be accepted only on the proposed changes in the draft addendum and not on any other aspect of Southwestern's final determination.

FOR FURTHER INFORMATION CONTACT: Mr. George Robbins, Director, Division of Resources and Rates, Southwestern Power Administration, U.S. Department of Energy, One West Third Street, Tulsa, Oklahoma 74103, (918) 595–6680, *george.robbins@swpa.gov.*

SUPPLEMENTARY INFORMATION:

I. Discussion

Originally established by Secretarial Order No. 1865 dated August 31, 1943, as an agency of the U.S. Department of the Interior, Southwestern is now an agency within the U.S. Department of Energy which was created by an Act of the U.S. Congress, entitled the Department of Energy Organization Act, Public Law 95–91 (1977). Southwestern markets power from 24 multi-purpose reservoir projects with hydroelectric power facilities constructed and operated by the U.S. Army Corps of Engineers (Corps). These projects are located in the states of Arkansas, Missouri, Oklahoma, and Texas. Southwestern's marketing area includes these states plus Kansas and Louisiana.

Section 132 of Public Law 109–103 (2005) authorized and directed the Secretary of the Army to implement alternatives BS–3 and NF–7, as described in the Corps' White River Minimum Flows Reallocation Study Report, Arkansas and Missouri, dated July 2004. The law provides that the

Administrator of Southwestern, in consultation with the project licensee and the relevant state public utility commissions, shall determine any impacts on electric energy and capacity generated at FERC Project No. 2221 caused by the storage reallocation at Bull Shoals Lake. Further, the licensee of Project No. 2221 is to be fully compensated by the Corps for those impacts on the basis of the present value of the estimated future lifetime replacement costs of the electrical energy and capacity at the time of implementation of the White River Minimum Flows project.

The law also provides that losses to the Federal hydropower purpose at the Bull Shoals and Norfork Projects shall be offset by a reduction in the costs allocated to the Federal hydropower purpose. Further, such reduction in costs shall be determined by the Administrator of Southwestern on the basis of the present value of the estimated future lifetime replacement cost of the electrical energy and capacity at the time of implementation of the White River Minimum Flows project.

In accordance with the legislation, Southwestern developed a procedure for calculating projected energy and capacity losses for FERC Project No. 2221 and the Bull Shoals and Norfork projects, including additional losses related to the reallocation for minimum flows as appropriate. Input from affected parties and from the public was invited and utilized in the development of the determination.

Southwestern's draft determination was published by **Federal Register** Notice (73 FR 6717) dated February 5, 2008. Written comments were invited through March 6, 2008. All public comments received were considered, and Southwestern's draft determination was revised as necessary to incorporate the public comments. Since there were significant changes to Southwestern's draft determination, Southwestern published a proposed determination for additional public review and comment prior to its final determination.

Southwestern's proposed determination was published by **Federal Register** Notice (73 FR 38198) on July 3, 2008. Written comments were invited through August 4, 2008. After receiving several requests for additional time to provide public comments, Southwestern reopened the public comment period through September 18, 2008, by **Federal Register** Notice (73 FR 46901) dated August 12, 2008. All public comments received were considered in revising the proposed determination and developing Southwestern's final determination.

Southwestern's final determination was published by **Federal Register** Notice (74 FR 4183) on January 23, 2009. Southwestern's final determination is fully documented in its Final Determination Report dated January 2009, which was prepared in consultation with the non-Federal licensee and the relevant public utility commissions. The report documents the procedure to be used to calculate the present value of the future lifetime replacement cost of the electrical energy and capacity lost due to the White River Minimum Flows project at the non-Federal FERC Project No. 2221 and the Federal Bull Shoals and Norfork projects.

As a result of an extensive internal review of its calculations in the final determination, Southwestern discovered an inadvertent omission of a portion of the energy benefits associated with the higher pools at the Federal Bull Shoals and Norfork projects. A detailed review of the energy loss calculations revealed that a portion of the energy benefits at the Federal projects which were believed to be included in the calculations had been inadvertently omitted from the calculations. While the gains from the increase in head (the vertical distance between the lake, or pool elevation, and the river, or tailwater elevation) that resulted from the higher pool elevations were included in the computation of benefits received from the generation of minimum flows releases at Bull Shoals, including an additional gain from a lower tailwater, the head gains were omitted for the remainder of the generation. Southwestern's draft addendum corrects the computation of energy loss and associated replacement costs for both Federal projects to include those gains.

The portion of the energy benefits due to higher head from the raised pools that were omitted amounted to an additional 11,669 megawatt-hours (MWh) at Bull Shoals and 1,459 MWh at Norfork. Inclusion of those benefits reduces the net energy losses at Bull Shoals and Norfork, respectively. The net annual energy loss at Bull Shoals will be 12,186 MWh, and the net annual energy loss at Norfork will be 12,065 MWh. As discussed in Southwestern's Final Determination Report, all of the lost energy at Bull Shoals is considered off-peak energy, and the lost energy at Norfork is considered one-half on-peak energy and one-half off-peak energy. There are no changes in the capacity loss at Norfork or in the capacity or energy loss at the non-Federal project.

As part of its review of the impacts that the average pool elevation increase has on the normal operation of the Federal projects, Southwestern also believed it should quantify dissolved oxygen (DO) impacts due to the average increase in pool elevation. In Southwestern's final determination it was recognized that generation at both Bull Shoals and Norfork is impacted annually due to low DO conditions. It was also noted that the higher pool elevations at both projects will cause the hypolimnion to be higher relative to the penstock elevations at both projects, causing water with lower DO levels to flow through the turbines during generation. Southwestern noted but did not quantify the value of the potential DO impact in its final determination.

Southwestern has developed a procedure for quantifying the estimated impacts and costs of lower DO levels on Federal hydropower. The procedure estimates the costs of mitigating the DO impacts resulting from the increased pool elevations at the Federal projects. A number of alternative solutions have been proposed for improving DO levels downstream of the Federal projects. Southwestern considered the initial capital cost and annual operation and maintenance expenses associated with these systems in determining the total impacts of the White River Minimum Flows project on hydropower production. The procedure is based on historical DO level data and is detailed in Southwestern's draft addendum. Based on the procedure and on current values of the specified parameters, the present value of the lifetime impact of lower DO levels on Federal hydropower is $10,207,900. It should be noted that the $10,207,900 amount only addresses the incremental impact of the increased pool elevation on DO levels and is not representation of an amount to satisfy all DO issues at the Federal projects.

Southwestern is also proposing to include an additional source for the discount rate to be used in the present value computation for all three projects. The 30-year Treasury bond rates in effect at the time of publication of Southwestern's draft, proposed, and final determinations were as high as 5.0 percent. The recent changes in the investment sector have resulted in the current rate being artificially lowered. In early 2009, the rate dropped as low as 3.5 percent. The rate is currently 4.25 percent. The discount rate used should be reflective of the ''cost of cash'' during the period of analysis. If the discount rate drops below the cost of long-term debt for either the Federal or non-Federal projects it is reasonable to assume that any offset or compensation would wisely be used to pay off those debts rather than invest the funds in

lower interest bearing accounts. Therefore, using the lower 30-year Treasury bond rate for the present value calculation would not be appropriate and would result in too much compensation for the losses. Southwestern's draft addendum revises the discount rate selection for calculation of the present value of the losses as follows: In calculating the present value of the Federal and non-Federal losses, Southwestern will use the higher of the current 30-year Treasury bond rate or each entity's, Southwestern and Empire, respectively, cost of long-term debt.

Based on an analysis of the long-term debt for Southwestern, the current 30-year Treasury bond rate is higher than Southwestern's cost of long-term debt. Using the updated procedure, the current discount rate to be used in the calculation of the present value of the Federal hydropower losses is the 30-year Treasury bond rate. Based on an analysis of the long-term debt for the non-Federal licensee utilizing information in its filings with FERC, the current 30-year Treasury bond rate is lower than the non-Federal licensee's cost of long-term debt. The updated procedure results in the use of the non-Federal licensee's cost of long-term debt as the current discount rate in the calculation of the present value of the non-Federal hydropower losses.

Southwestern's draft addendum details the proposed changes to Southwestern's final determination. Assuming a January 1, 2011 date of implementation for the White River Minimum Flows project and current values for the specified parameters, Southwestern's modified final determination results in a present value for the estimated future lifetime replacement costs of the electrical energy and capacity at FERC Project No. 2221 of $22,340,800. Southwestern's modified final determination results in a present value for the estimated future lifetime replacement costs of the electrical energy and capacity for Federal hydropower of $60,851,800. The actual compensation values are to be calculated using the method presented in Southwestern's modified final determination and current values for the specified parameters based on the official implementation date.

II. Public Review and Comment Procedures

Opportunity is presented for interested parties to receive copies of Southwestern's draft addendum detailing the proposed changes to Southwestern's final determination of the Federal and non-Federal hydropower impacts. If you desire a copy of the draft addendum, submit your request to Mr. George Robbins, Director, Division of Resources and Rates, Southwestern Power Administration, One West Third Street, Tulsa, OK 74103, (918) 595–6680, *george.robbins@swpa.gov.*

Written comments on Southwestern's draft addendum are due on or before July 8, 2009. Comments should be submitted to George Robbins, Director, Division of Resources and Rates, Southwestern, at the above-mentioned address for Southwestern's offices. Comments will be accepted only on the proposed changes in the draft addendum and not on any other aspect of Southwestern's final determination.

Southwestern will review and address the written comments, making any necessary changes to the draft addendum. The Administrator will publish the results of Southwestern's finalized addendum in the **Federal Register**.

Dated: June 1, 2009.

Jon C. Worthington,

Administrator.

[FR Doc. E9–13322 Filed 6–5–09; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1354–081]

Pacific Gas & Electric Company; Notice of Availability of Environmental Assessment

June 1, 2009.

In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Energy Regulatory Commission's (Commission) regulations (18 CFR Part 380), Commission staff has reviewed plans, filed May 13, 2008, and supplemented April 17, 2009, to perform seismic remediation work at Crane Valley Dam, part of the Crane Valley Hydroelectric Project. The project occupies approximately 738 acres of federal lands within Sierra National Forest, approximately 40 miles northeast of the city of Fresno in Modesto County, California. Crane Valley Dam is located on North Fork Willow Creek, in the San Joaquin River Basin. An environmental assessment (EA) has been prepared as part of staff's review.

The project licensee, Pacific Gas and Electric Company (PG&E), at the request of the California Department of Water Resources, Division of Safety of Dams (DSOD), revised the seismic stability analyses for Crane Valley Dam, finding that modifications to the dam are necessary to correct a possible vulnerability during a seismic event that could lead to an uncontrolled release, endangering downstream residents. Accordingly, the Commission has required remediation under Part 12 of its regulations.

PG&E proposes to increase the seismic stability of Crane Valley Dam by: (1) Adding approximately 200,000 cubic yards of rock fill to areas on the upstream and downstream faces of the dam; and (2) raising the elevation of the dam by approximately 10 feet, to increase freeboard, using approximately 10,000 cubic yards of earth fill. Consultation among the Commission, DSOD, and the licensee has also determined that Bass Lake's normal recreational elevation should be reduced 10 feet in 2009 and 2010 to reduce pressure on the dam until the remediation work is complete. The proposed work would be performed within the project boundary and on U.S. Forest Service lands.

In the EA, Commission staff analyzes the probable environmental effects of the proposed work and has concluded that approval of the work, with appropriate environmental measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

A copy of the EA is available for review at the Commission's Public Reference Room, or it may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number (P–1354) in the docket number field to access the document. For assistance, call (202) 502–8222, or (202) 502–8659 (for TTY).

Any comments should be filed by July 1, 2009, and should be addressed to Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please reference the Crane Valley Project No. 1354 on all comments. For further information on this notice, please contact B. Peter Yarrington at (202) 502–6129.

Comments may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *www.ferc.gov* under the e-Filing link. The Commission strongly encourages electronic filing.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–13235 Filed 6–5–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP09–237–000]

Transcontinental Gas Pipe Line Company LLC; Notice of Intent To Prepare an Environmental Assessment for the Proposed Delta Lateral Project and Request for Comments on Environmental Issues

May 29, 2009.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an Environmental Assessment (EA) that will discuss the environmental impacts of the Delta Lateral Project involving construction and operation of facilities by Transcontinental Gas Pipe Line Company LLC (Transco) in York County, Pennsylvania. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process we will use to gather input from the public and interested agencies on the project. Your input will help the Commission staff determine what issues need to be evaluated in the EA. Please note that the scoping period will close on June 30, 2009.

This notice is being sent to affected landowners; Federal, State, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties in this proceeding; and local libraries and newspapers. State and local government representatives are asked to notify their constituents of this proposed project and encourage them to comment on their areas of concern.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' is available for viewing on the FERC Web site (*http://www.ferc.gov*). This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*).

Summary of the Proposed Project

Transco proposes to construct its Delta Lateral Project in York County, Pennsylvania, in order to provide 208,800 dekatherms per day of firm transportation service to the Delta Power Plant, a natural gas and oil fired electric power generation plant that is currently under construction in York County.

Transco is proposing to construct:

- 3.42 miles of 16-inch-diameter pipeline lateral from Compressor Station 195 located at milepost (MP) 1674.6 of Transco's Mainlines A and C to the interconnection with the Delta Power Plant;
- Two 12-inch taps at MP 1674.6, one each on Mainlines A and C discharge headers;
- Minor aboveground facilities and modifications including a new pig launcher and receiver;
- A delivery point meter station at the Delta Power Plant site, including two 8-inch ultrasonic meters, 12-inch yard piping, electronic flow measurement equipment and a radio with a tower;
- An odorization system within the Delta Power Plant site;
- A chromatograph with accessories, and a radio and building within the Delta Power Plant site; and
- A 630-foot-long cathodic protection ground bed at MP 1.9, adjacent to Delta Road.

The general location of the project facilities is shown in Appendix 1.[1]

Land Requirements for Construction

Construction of the proposed facilities would require about 54.1 acres of land. Following construction, about 14.8 acres would be maintained as new aboveground facility sites and permanent pipeline right-of-way. The remaining 39.3 acres of land would be restored and allowed to revert to their former use.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission staff requests public comments on the scope of the issues to address in the EA. All comments received will be considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

In the EA, we[2] will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Land use;
- Geology and soils;
- Water resources, fisheries, and wetlands;
- Cultural resources;
- Vegetation and wildlife;
- Endangered and threatened species; and
- Public safety.

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be presented in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to the entities on our mailing list (see how to remain on our mailing list under Environmental Mailing List, below). A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission. To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the Delta Lateral Project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send in your comments so that they will be received in Washington, DC on or before June 30, 2009.

For your convenience, there are three methods which you can use to submit your comments to the Commission. In all instances, please reference the

[1] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of all appendices are available on the Commission's Web site at the ''eLibrary'' link or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

project docket number CP09–237–000 with your submission. The Commission encourages electronic filing of comments and has dedicated eFiling expert staff available to assist you at 202–502–8258 or *efiling@ferc.gov*.

(1) You may file your comments electronically by using the Quick Comment feature, which is located on the Commission's Web site at *http://www.ferc.gov* under the link to Documents and Filings. A Quick Comment is an easy method for interested persons to submit text-only comments on a project;

(2) You may file your comments electronically by using the eFiling feature, which is located on the Commission's Web site at *http://www.ferc.gov* under the link to Documents and Filings. eFiling involves preparing your submission in the same manner as you would if filing on paper, and then saving the file on your computer's hard drive. You will attach that file as your submission. New eFiling users must first create an account by clicking on ''Sign up'' or ''eRegister.'' You will be asked to select the type of filing you are making. A comment on a particular project is considered a ''Comment on a Filing;'' or

(3) You may file your comments via mail to the Commission by sending an original and two copies of your letter to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426.

Label one copy of the comments for the attention of Gas Branch 3, PJ–11.3.

Environmental Mailing List

An effort is being made to send this notice to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. This includes all landowners who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own property within distances defined in the Commission's regulations of certain aboveground facilities.

If you do not want to send comments at this time but still want to remain on our mailing list, please return the Information Request (Appendix 2). If you do not return the Information Request, you will be taken off the mailing list.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an ''intervenor,'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are included in the User's Guide under the ''e-filing'' link on the Commission's Web site.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number (CP09–237) excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm*.

Finally, public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–13229 Filed 6–5–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER09–1195–000]

Palmco Power PA, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

May 29, 2009.

This is a supplemental notice in the above-referenced proceeding of Palmco Power PA, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the Applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is June 19, 2009.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–13226 Filed 6–5–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER09–1196–000]

Lost Creek Wind, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

May 29, 2009.

This is a supplemental notice in the above-referenced proceeding of Lost Creek Wind, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is June 19, 2009.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–13227 Filed 6–5–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER09–1194–000]

Palmco Power NJ, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

May 29, 2009.

This is a supplemental notice in the above-referenced proceeding of Palmco Power NJ, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 19, 2009.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list.

They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–13225 Filed 6–5–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER06–615–000; ER07–1257–000; ER08–1113–000; ER08–1178–000; ER09–241–000]

California Independent System Operator Corporation; Notice of FERC Staff Attendance

May 29, 2009.

The Federal Energy Regulatory Commission (Commission) hereby gives notice that on the following dates members of its staff will participate in teleconferences and meetings to be conducted by the California Independent System Operator (CAISO). The agenda and other documents for the teleconferences and meetings are available on the CAISO's Web site, *http://www.caiso.com.*

June 1, 2009 Market Simulation Review.

June 2, 2009 Systems Interface User Group.

Market Simulation Checkpoint.

June 3, 2009 Settlements and Market Clearing User Group. Congestion Revenue Rights.

June 4, 2009 Market Simulation Checkpoint.

June 9, 2009 Systems Interface User Group. Market Simulation Checkpoint.

June 10, 2009 Settlements and Market Clearing User Group. Congestion Revenue Rights.

June 11, 2009 Market Simulation Checkpoint.

June 16, 2009 Systems Interface User Group.

Sponsored by the CAISO, the teleconferences and meetings are open to all market participants, and

Commission staff's attendance is part of the Commission's ongoing outreach efforts. The teleconferences and meetings may discuss matters at issue in the above captioned dockets.

For further information, contact Saeed Farrokhpay at *saeed.farrokhpay@ferc.gov;* (916) 294–0322 or Maury Kruth at *maury.kruth@ferc.gov,* (916) 294–0275.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–13224 Filed 6–5–09; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8914–4]

Cross-Media Electronic Reporting Rule State Authorized Program Revision Approval: State of Utah

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval, under regulations for Cross-Media Electronic Reporting, of the State of Utah's request to revise certain of their EPA-authorized programs to allow electronic reporting.

DATES: EPA's approval is effective June 8, 2009.

FOR FURTHER INFORMATION CONTACT: Evi Huffer, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 566–1697, *huffer.evi@epa.gov,* or David Schwarz, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 566–1704, *schwarz.david@epa.gov.*

SUPPLEMENTARY INFORMATION: On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as Part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Under Subpart D of CROMERR, state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and get EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, in § 3.1000(b) through (e) of 40 CFR Part 3, Subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the Subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable Subpart D requirements.

On December 23, 2008, the State of Utah Department of Environmental Quality (UTDEQ) submitted an application for their Net Discharge Monitoring Report (NetDMR) electronic document receiving system application for revision of their EPA-authorized 40 CFR Part 123—NPDES State Program Requirements.

EPA has reviewed UTDEQ's request to revise their EPA-authorized program and, based on this review, EPA has determined that the application for the program identified in this Notice meet the standards for approval of authorized program revisions/modifications set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve UTDEQ's request for revision to their authorized program is being published in the **Federal Register**. Specifically, EPA has approved Utah's request for revision to their 40 CFR Part 123—NPDES State Program Requirements authorized program for electronic reporting of discharge monitoring report information.

UTDEQ was notified of EPA's determination to approve its application with respect to the authorized program listed above in a letter dated May 28, 2009.

Dated: May 28, 2009.

Lisa Schlosser,

Director, Office of Information Collection.

[FR Doc. E9–13324 Filed 6–5–09; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Establishment of the FDIC Advisory Committee on Community Banking

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice.

SUMMARY: The Chairman of the Federal Deposit Insurance Corporation has decided to establish the FDIC Advisory Committee on Community Banking (''the Committee''). The Committee will provide advice and recommendations on a broad range of policy issues that have a particular impact on small community banks throughout the United States and the local communities that are served by those community banks, including a focus on rural areas. The Committee will review various issues concerning community banks that may include, but are not limited to, the latest examination policies and procedures, credit and lending practices, deposit insurance assessments, insurance coverage issues, and regulatory compliance matters, as well as any obstacles to the continued growth and ability of community banks to extend financial services in their local markets in the current market environment. The Chairman certifies that the establishment of this advisory committee is in the public interest in connection with the performance of duties imposed on the FDIC by law.

FOR FURTHER INFORMATION CONTACT: Robert E. Feldman, Executive Secretary, FDIC, 550 17th Street, NW., Washington, DC 20429; telephone (202) 898–7043. Additional information is available at *http://www.fdic.gov/communitybanking.* If you are interested in being considered for membership on this Advisory Committee, send your resume or biographical information, as well as a brief summary (limited to one page in length) of the reason(s) you are interested in serving on the Advisory Committee, and how you are qualified to represent a particular group or industry sector, by July 3, 2009, to the following e-mail address: *CommunityBanking@fdic.gov.* Committee members will not receive any compensation for their services other than reimbursement for reasonable travel expenses incurred to attend Advisory Committee meetings.

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Federal Advisory Committee Act (''FACA'') 5 U.S.C. App. 2, notice is hereby given that the Chairman of the FDIC intends to establish the FDIC Advisory Committee on Community

Banking (''the Committee''). After consultation with the General Services Administration, as required by section 9(a)(2) of FACA and 41 CFR 102–3.65, the Chairman of the FDIC certifies that she has determined that the establishment of the Committee is in the public interest in connection with the performance of duties imposed on the FDIC by law. The Committee will provide advice and recommendations on a broad range of policy issues that have a particular impact on small community banks throughout the United States and the local communities that are served by those community banks, including a focus on rural areas. The Committee will review various issues concerning community banks that may include, but are not limited to, the latest examination policies and procedures, credit and lending practices, deposit insurance assessments, insurance coverage issues, and regulatory compliance matters, as well as any obstacles to the continued growth and ability of community banks to extend financial services in their local markets in the current market environment. The Committee will function solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act. The Committee will represent community banks of various sizes and charter types, both urban and rural, from different regions of the country, and members of the Committee may also represent individuals, small businesses, not-for-profit community organizations, or other entities that rely on community banks to provide credit and other banking services in their communities, as well as one or more representatives from academic institutions.

Dated at Washington, DC, this 3rd day of May, 2009.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. E9–13251 Filed 6–5–09; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

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 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 office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 23, 2009.

A. Federal Reserve Bank of Atlanta (Steve Foley, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. Jessie Doyle Buffington; Helmut Hans Cawthon; Kenneth Franklin Davis; Clinton Gray Hubbard; Stephen Curtis Klasson; Kimberly Gill Mauer; Laura Hallin Mumber; Matthew Peter Mumber; Delos Harley Yancey, III; John Demetrius Xanthos, all of Rome, Georgia; Andrew Charles Heaner, Atlanta, Georgia; Wayne Elm Vick, Armuchee, Georgia; and Delos Harley Yancey Jr., Ponte Vedra Beach, Florida; collectively to acquire additional voting shares of Heritage First Bancshares, Inc., Rome, Georgia, and thereby indirectly acquire additional voting shares of Heritage First Bank, Rome, Georgia, and Heritage First Bank, Orange Beach, Alabama.

Board of Governors of the Federal Reserve System, June 3, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–13292 Filed 6–5–09; 8:45 am]

BILLING CODE 6210–01–S

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 also will 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. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

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 July 6, 2009.

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. Pinnacle Bancshares, Inc., Rogers, Arkansas; to acquire 100 percent of the voting shares of Central Bank, Little Rock, Arkansas.

2. SBW Bancshares, Inc., Waterloo, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of State Bank of Waterloo, Waterloo, Illinois.

Board of Governors of the Federal Reserve System, June 3, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–13293 Filed 6–5–09; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act; Notice of Meeting

TIME AND DATE: 10 a.m. (Eastern Time) June 16, 2009.

PLACE: 4th Floor Conference Room, 1250 H Street, NW., Washington, DC 20005.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the May 18, 2009 Board member meeting.
2. Thrift Savings Plan activity report by the Executive Director.
   a. Participant Activity Report.
   b. Investment Performance Report.
   c. Legislative Report.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: June 4, 2009.

Thomas K. Emswiler,

Secretary, Federal Retirement Thrift Investment Board.

[FR Doc. E9–13520 Filed 6–4–09; 4:15 pm]

BILLING CODE 6760–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Generic Clearance To Conduct Voluntary Customer/Partner Surveys

Summary: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Library of Medicine (NLM), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on March 30, 2009 (Vol. 74, No. 59, Pg. 14137) and allowed 60-days for public comment. One public comment was received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection: Title: Generic Clearance To Conduct Voluntary Customer/Partner Surveys. *Type of Information Collection Request:* Extension. OMB Control No. 0925–0476, with an expiration date of July 31, 2009. *Need and Use of Information Collection:* Executive Order 12962 directed agencies that provide significant services directly to the public to survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services. Additionally, since 1994, the NLM has been a ''Federal Reinvention Laboratory'' with a goal of improving its methods of delivering information to the public. An essential strategy in accomplishing reinvention goals is the ability to periodically receive input and feedback from customers about the design and quality of the services they receive. The NLM provides significant services directly to the public including health providers, researchers, universities, other Federal agencies, State and local governments, and to others through a range of mechanisms, including publications, technical assistance, and Web sites. These services are primarily focused on health and medical information dissemination activities. The purpose of this submission is to obtain OMB's generic approval to continue to conduct satisfaction surveys of NLM's customers. The NLM will use the information provided by individuals and institutions to identify strengths and weaknesses in current services and to make improvements where feasible. The ability to periodically survey NLM's customers is essential to continually update and upgrade methods of providing high quality service. *Frequency of Response:* Annually or biennially. *Affected Public:* Individuals or households; businesses or other for profit; State or local governments; Federal agencies; non-profit institutions; small businesses or organizations. *Type of Respondents:* Organizations, medical researchers, physicians and other health care providers, librarians, students, and the general public. The annual reporting burden is as follows: *Estimated Number of Respondents:* 27,910. *Estimated Number of Responses per Respondent:* 1. *Average Burden Hours per Response:* 0.129 and *Estimated Total Annual Burden Hours Requested:* 3,607. The annualized cost to respondents is estimated at $23,126. There are no Capital Costs, Operating Costs, and/or Maintenance Costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function 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 the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: David Sharlip, National Library of Medicine, Building 38A, Room B2N12, 8600 Rockville Pike, Bethesda, MD 20894, or call non-toll free number 301–402–9680, or e-mail your request to *sharlipd@mail.nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: June 2, 2009.

Betsy L. Humphreys,

Deputy Director, National Library of Medicine, National Institutes of Health.

[FR Doc. E9–13275 Filed 6–5–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–09–09BV]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 or send comments to Maryam I. Daneshvar, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS D–74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information 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. Written comments should be received within 60 days of this notice.

Proposed Project

Workload Management Study of Central Cancer Registries—New—Division of Cancer Prevention and Control, National Center for Chronic Disease Prevention and Health

Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC currently supports the National Program of Cancer Registries (NPCR), a group of central cancer registries in 45 states, the District of Columbia, and 2 territories. The central cancer registries are data systems that collect, manage, and analyze data about cancer cases and cancer deaths. NPCR-funded central cancer registries submit population-based cancer incidence data to CDC on an annual basis (OMB No. 0920–0469, exp. 1/31/2010). In addition, NPCR-funded registries submit program and performance indicator information to CDC on a semi-annual schedule (OMB No. 0920–0706, exp. 12/31/2011). CDC uses the performance indicators to evaluate the registries' use of funds, their progress toward meeting objectives, and their infrastructure and operational attributes.

Central cancer registries report that they are chronically understaffed, and many registries are concerned about the impact of staff shortages on data quality standards. Staffing patterns are known to vary widely from registry to registry, and registries differ greatly in the number of incidence cases that they process as well as their use of information technology. Cancer registries have asked for clear staffing guidelines based on registry characteristics such as size (i.e., number of new cases annually), degree of automation, and registry-specific reporting procedures.

CDC proposes to conduct a one-time Workload Management Survey (WLM) in 2009–2010 to inform the development of staffing guidelines for central cancer registries. The WLM survey questions do not duplicate the program and performance indicator information reported to CDC on a routine basis. Respondents will be cancer registrars in the NPCR-funded central cancer registries in 45 states and the District of Columbia. Cancer registrars at each registry will maintain a paper-based Work Activities Journal for a one-week period. At the end of the week, the registry manager will consolidate the individual journal worksheets to prepare an aggregate Workload Management Survey for the registry, which will be submitted to CDC electronically.

Results of the WLM survey will enable CDC to assess the workforce necessary for meeting data reporting requirements and to estimate the impact of planned changes to surveillance data reporting. Finally, CDC will develop specific guidance so that cancer registry managers can more effectively measure workload, evaluate the need for staff and staff credentials, and advocate for adequate staffing.

Participation in the survey is voluntary. There are no costs to respondents 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)	Total burden (in hours)
NPCR Registries	Workload Management Survey	46	1	4	184
	Work Activities Journal	368	1	2	736
Total					920

Dated: June 1, 2009.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E9–13302 Filed 6–5–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–09–09BU]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 or send comments to Maryam I. Daneshvar, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information 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. Written comments should be received within 60 days of this notice.

Proposed Project

National Adult Tobacco Survey (NATS)—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Despite the high level of public knowledge about the adverse effects of smoking, tobacco use remains the leading preventable cause of disease and death in the United States. Tobacco use results in approximately 440,000 deaths annually, including approximately 38,000 deaths from secondhand smoke exposure. Adults who smoke contribute to $92 billion annually in lost worker productivity, and die an average of 14 years earlier than nonsmokers. Although the prevalence of current smoking among adults decreased significantly from 1998 to 2007 in 44 states, the District of Columbia, and Puerto Rico, only one state and one territory have met Healthy People 2010 targets for reducing adult smoking prevalence to 12%, and six states have shown no substantial changes in prevalence after controlling for age, sex, and race/ethnicity.

The National Tobacco Control Program (NTCP) was established by CDC to help reduce tobacco-related

disease, disability, and death. The NTCP's four goal areas are: (1) The prevention of initiation of tobacco use among young people, (2) the elimination of nonsmokers' exposure to secondhand smoke, (3) the promotion of quitting among adults and young people, and (4) the elimination of tobacco-related disparities.

CDC proposes to conduct the National Adult Tobacco Survey (NATS) in order to collect essential information on key indicators of the effectiveness for the NTCP. The NATS will be a one-time, stratified, random-digit dialed telephone survey of non-institutionalized adults 18 years of age and older. In order to yield results that are representative and comparable at both national and state levels, information will be collected from 3,000 respondents per state and the District of Columbia. In addition, a total of approximately 3,000 interviews will be conducted specifically from a national sample of cell phone users in an attempt to include the growing population of households that exclusively use cell phones and would be missed in a survey relying only on land-lines.

Information collected through the NATS will be used to: (1) Generate state-level estimates of tobacco use for males and females, (2) generate state-level estimates of tobacco use for minority groups comprising a major component of a given state's population, (3) develop estimates of tobacco use at the national level by gender and race/ethnicity, and (4) support the evaluation of comprehensive state-based Tobacco Control Programs using key outcome indicators at the state and national levels. Study results will have significant implications for the development of policies and programs aimed at preventing or reducing tobacco use. There are no costs to respondents except their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Adults ages 18 or older	National Adult Tobacco Survey	156,000	1	22/60	57,200

Dated: June 1, 2009.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E9–13301 Filed 6–5–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0251]

Agency Information Collection Activities; Proposed Collection; Comment Request; User Fee Cover Sheet; Form FDA 3397

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on Form FDA 3397, User Fee Cover Sheet, that must be submitted along with certain drug and biologic product applications and supplements.

DATES: Submit written or electronic comments on the collection of information by August 7, 2009.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of Information Management (HFA–710), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–796–3794.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comment on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

User Fee Cover Sheet; Form FDA 3397—(OMB Control Number 0910–0297)—Extension

Under sections 735 and 736 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 379g and 379h), the Prescription Drug User Fee Act of 1992 (PDUFA) (Public Law 102–571), as amended by the Food and Drug Administration Modernization Act of 1997 (Public Law 105–115), the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, which includes the Prescription Drug User Fee Amendments of 2002 (Public Law 107–188), and most recently by the Food and Drug Administration

Amendments Act of 2007 (Public Law 110–85), FDA has the authority to assess and collect user fees for certain drug and biologics license applications and supplements. Under this authority, pharmaceutical companies pay a fee for certain new human drug applications, biologics license applications, or supplements submitted to the agency for review. Because the submission of user fees concurrently with applications and supplements is required, review of an application by FDA cannot begin until the fee is submitted. Form FDA 3397, the user fee cover sheet, is designed to provide the minimum necessary information to determine whether a fee is required for review of an application, to determine the amount of the fee required, and to account for and track user fees. The form provides a cross-reference of the fee submitted for an application by using a unique number tracking system. The information collected is used by FDA's Center for Drug Evaluation and Research (CDER) and Center for Biologics Evaluation and Research (CBER) to initiate the administrative screening of new drug applications, biologics license applications, and supplemental applications.

Respondents to this collection of information are new drug and biologics manufacturers. Based on FDA's database system for fiscal year (FY) 2008, there are an estimated 255 manufacturers of products subject to the user fee provisions of PDUFA. However, not all manufacturers will have any submissions, and some may have multiple submissions in a given year. The total number of annual responses is based on the number of submissions received by FDA in FY 2008. CDER received 3,107 annual responses that include the following submissions: 147 new drug applications; 13 biologics license applications; 1,813 manufacturing supplements; 987 labeling supplements; and 147 efficacy supplements. CBER received 810 annual responses that include the following submissions: 9 biologics license applications; 743 manufacturing supplements; 48 labeling supplements; and 10 efficacy supplements. Based on the previous submissions that were received, the rate of these submissions is not expected to change significantly in the next few years. The estimated hours per response are based on past FDA experience with the various submissions, and the average is 30 minutes.

FDA is revising Form FDA 3397 in the following ways: (1) By including an additional question regarding redemption of a priority review voucher; (2) by deleting the exclusion for certain applications submitted under section 505(b)(2) of the FD&C Act (21 U.S.C. 355(b)(2)); and (3) by making several minor editorial changes.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN[1]

Form	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
FDA 3397	255	15.36	3,917	0.5	1,959

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: June 1, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9–13276 Filed 6–5–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2007–D–0369] (formerly Docket No. 2007D–0169)

Draft and Revised Draft Guidances for Industry Describing Product-Specific Bioequivalence Recommendations; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of additional draft and revised draft product-specific bioequivalence (BE) recommendations. The recommendations provide product-specific guidance on the design of BE studies to support abbreviated new drug applications (ANDAs). In the **Federal Register** of May 31, 2007, FDA announced the availability of a draft guidance for industry entitled ''Bioequivalence Recommendations for Specific Products'' explaining the process that would be used to make product-specific BE recommendations available to the public on FDA's Web site. The BE recommendations identified in this notice were developed using the process described in that guidance. Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of final product-specific BE recommendations.

DATES: Submit written or electronic comments on the draft and revised draft product-specific BE recommendations listed in this notice by September 8, 2009.

ADDRESSES: Submit written requests for single copies of the individual BE guidances to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft product-specific BE recommendations to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the recommendations.

FOR FURTHER INFORMATION CONTACT: Doan T. Nguyen, Center for Drug Evaluation and Research (HFD–600), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–276–9314.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of May 31, 2007 (72 FR 30388), FDA announced the availability of a draft guidance for industry entitled ''Bioequivalence Recommendations for Specific Products'' that explained the process that would be used to make product-specific BE recommendations available to the public on FDA's Web site at *http://www.fda.gov/cder/guidance/bioequivalence/default.htm*. As described in that draft guidance, FDA adopted this process as a means to develop and disseminate product-specific BE recommendations and provide a meaningful opportunity for

the public to consider and comment on those recommendations. Under that process, draft recommendations are posted on FDA's Web site and announced periodically in the **Federal Register**. The public is encouraged to submit comments on those recommendations within 90 days of their announcement in the **Federal Register**. FDA considers any comments received and either publishes final recommendations, or publishes revised draft recommendations for comment. Recommendations were last announced in the **Federal Register** of September 5, 2008 (73 FR 51829). This notice announces draft product-specific recommendations, either new or revised, that have been posted on FDA's Web site in the period from May 1, 2008, through October 31, 2008. Final product-specific recommendations are being announced elsewhere in this issue of the **Federal Register**.

II. Drug Products for Which Draft Product-Specific BE Recommendations Are Available

FDA is announcing draft BE product-specific recommendations for drug products containing the following active ingredients:

A
Acetazolamide
Adefovir Dipivoxil
Albuterol Sulfate
Aliskiren Hemifumarate
Alprazolam
Aminosalicylic Acid
Amlodipine Besylate; Olmesartan Medoxomil

Amlodipine Besylate; Valsartan
Amprenavir
Atovaquone; Proguanil
Azacitidine
Azithromycin

B
Baclofen
Bethanechol Chloride
Bismuth Subcitrate Potassium; Metronidazole; Tetracycline HCl
Brimonidine Tartrate
Bumetanide
Busulfan

C
Calcitriol
Capecitabine
Citalopram HBr (multiple dosage forms)
Clotrimazole
Colesevelam HCl
Cyclobenzaprine HCl

D
Demeclocycline HCl
Desogestrel; Ethinyl Estradiol
Diflunisal
Disopyramide Phosphate (multiple dosage forms)
Doxercalciferol
Doxycycline
Doxycycline Hyclate

E
Efavirenz; Emtricitabine; Tenofovir Disoproxil Fumarate
Enalapril Maleate
Eprosartan Mesylate
Escitalopram Oxalate
Ethinyl Estradiol; Levonorgestrel
Ethinyl Estradiol; Norethindrone Acetate (multiple reference listed drugs (RLDs))
Ethosuximide
Ezetimibe; Simvastatin
Ezetimibe

F
Famciclovir
Fenofibrate (multiple dosage forms)
Fexofenadine HCl
Frovatriptan Succinate

G
Gatifloxacin
Glipizide
Goserelin Acetate
Griseofulvin, Ultramicrocrystalline

H
Hydrochlorothiazide; Telmisartan
Hydrochlorothiazide; Triamterene
Hydralazine HCl
Hydroxyurea

I
Ibuprofen (multiple dosage forms)
Indapamide
Isoniazid
Isotretinoin

K
Ketoconazole
Ketorolac Tromethamine

L
Lansoprazole
Latanoprost
Letrozole
Leucovorin Calcium
Leuprolide Acetate
Levocetirizine Dihydrochloride
Levofloxacin
Lisdexamfetamine Dimesylate
Lithium Carbonate
Lopinavir; Ritonavir
Loratadine

M
Mebendazole
Melphalan
Metformin HCl
Methadone HCl
Midodrine HCl
Minocycline HCl
Montelukast
Montelukast Sodium
Moxifloxacin HCl

N
Nabilone
Naltrexone HCl
Naproxen Sodium (multiple RLDs)
Naratriptan HCl
Nicardipine HCl

O
Olanzapine
Olopatadine HCl
Omeprazole; Sodium Bicarbonate

P
Paroxetine HCl
Penicillamine
Phenoxybenzamine HCl
Prednisolone Sodium Phosphate

Q
Quetiapine Fumarate

R
Ramipril
Repaglinide

S
Sapropterin Dihydrochloride
Selegiline HCl
Sevelamer Carbonate
Sevelamer HCl
Simvastatin
Sitagliptin Phosphate; Metformin HCl
Sodium Iodide
Stavudine
Sulfadiazine
Sulfamethoxazole; Trimethoprim

T
Theophylline
Tiagabine HCl
Triptorelin Pamoate
Trospium Cl

U
Ursodiol

V
Valganciclovir HCl
Verapamil HCl
Vorinostat

Z
Zileuton
Ziprasidone HCl

III. Drug Products for Which Revised Draft Product-Specific BE Recommendations Are Available

FDA is announcing revised draft BE product-specific recommendations for drug products containing the following active ingredients. These recommendations were previously posted on FDA's Web site.

A
Alprazolam

C
Candesartan Cilexetil; Hydrochlorothiazide

Carbidopa; Entacapone; Levodopa
Clopidogrel Bisulfate

F
Fexofenadine HCl (multiple dosage forms)

Fosinopril Sodium; Hydrochlorothiazide

H

Hydrochlorothiazide; Valsartan

M

Minoxidil

Montelukast Sodium

Morphine Sulfate

S

Sirolimus

Z

Zolmitriptan

For a complete history of previously published Federal Register notices, please go to *http://www.regulations.gov* and enter docket number FDA–2007–D–0369.

These guidances are being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidances represent the agency's current thinking on product-specific design of BE studies to support ANDAs. They do not create or confer any rights for or on any person and do not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

IV. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments on any of the specific BE recommendations posted on FDA's Web site. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance, notices, and received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

V. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/cder/guidance/index.htm* or *http://www.regulations.gov*.

Dated: May 27, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9–13272 Filed 6–5–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2007–D–0369] (formerly Docket No. 2007D–0169)

Final Guidances for Industry Describing Product-Specific Bioequivalence Recommendations; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of final product-specific bioequivalence (BE) recommendations. The recommendations provide product-specific guidance on the design of BE studies to support abbreviated new drug applications (ANDAs). In the **Federal Register** of May 31, 2007, FDA announced the availability of a draft guidance for industry entitled ''Bioequivalence Recommendations for Specific Products'' explaining the process that would be used to make product-specific BE recommendations available to the public on FDA's Web site. The BE recommendations identified in this notice were developed using the process described in that guidance. Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of additional draft and revised draft product-specific BE recommendations.

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the individual BE guidances to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the product-specific BE recommendations to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the recommendations.

FOR FURTHER INFORMATION CONTACT: Doan T. Nguyen, Center for Drug Evaluation and Research (HFD–600), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–276–9314.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of May 31, 2007 (72 FR 30388), FDA announced the availability of a draft guidance for industry entitled ''Bioequivalence Recommendations for Specific Products'' that explained the process that would be used to make product-specific BE recommendations available to the public on FDA's Web site at *http://www.fda.gov/cder/guidance/bioequivalence/default.htm*. As described in that draft guidance, FDA adopted this process as a means to develop and disseminate product-specific BE recommendations and provide a meaningful opportunity for the public to consider and comment on those recommendations. Under that process, draft recommendations are posted on FDA's Web site and announced periodically in the **Federal Register**. The public is encouraged to submit comments on those recommendations within 90 days of their announcement in the **Federal Register**. FDA considers any comments received and either publishes final recommendations, or publishes revised draft recommendations for comment. Once finalized, the recommendations are posted on FDA's Web site and announced in the **Federal Register**. This notice announces product-specific recommendations that have been posted on FDA's Web site from May 1, 2008, through October 31, 2008. Additional draft and revised draft product-specific BE recommendations are being announced elsewhere in this issue of the **Federal Register**.

II. Drug Products for Which Final Product-Specific BE Recommendations Are Available

FDA is announcing final BE product-specific recommendations for drug products containing the following active ingredients:

A

Abacavir Sulfate
Abacavir Sulfate; Lamivudine; Zidovudine

Acamprosate Calcium
Acyclovir
Almotriptan Malate
Alosetron HCl
Amlodipine Besylate
Amlodipine Besylate; Benazepril HCl
Amoxicillin; Clavulanate Potassium
Anagrelide HCl
Anastrozole
Aprepitant

Atazanavir Sulfate
Atomoxetine HCl
Atorvastatin Calcium

B
Benzonatate
Benzphetamine HCl
Bicalutamide
Bisoprolol Fumarate
Bisoprolol Fumarate; Hydrochlorothiazide

C
Candesartan Cilexetil
Carbamazepine
Carvedilol
Cefditoren Pivoxil
Cetirizine HCl
Cevimeline HCl
Cilostazol
Cinacalcet HCl
Clarithromycin
Clonidine HCl

D
Danazol
Darifenacin HBr
Deferasirox
Desloratadine (multiple dosage forms)
Dextromethorphan Polistirex
Diclofenac Sodium; Misoprostol
Dicloxacillin Sodium
Didanosine (multiple dosage forms)
Digoxin
Dipyridamole
Divalproex Sodium
Dofetilide
Donepezil HCl (multiple dosage forms)
Doxazosin Mesylate
Drospirenone; Estradiol
Duloxetine HCl
Dutasteride

E
Efavirenz (multiple dosage forms)
Emtricitabine
Entacapone
Entecavir
Eplerenone
Erlotinib HCl
Escitalopram Oxalate
Esomeprazole Magnesium
Etidronate Disodium
Exemestane

F
Famotidine (multiple dosage forms)
Fenofibrate (multiple dosage forms)
Fluconazole
Fluoxetine HCl; Olanzapine
Fosamprenavir Calcium
Fosinopril Sodium

G
Gabapentin
Gemifloxacin Mesylate
Glimepiride
Glipizide; Metformin HCl
Glyburide; Metformin HCl
Granisetron HCl

H
Hydrochlorothiazide
Hydrochlorothiazide; Irbesartan
Hydrochlorothiazide; Lisinopril
Hydrochlorothiazide; Losartan Potassium

Hydrochlorothiazide; Olmesartan Medoxomil

I
Ibandronate Sodium
Indinavir Sulfate
Irbesartan
Isosorbide Mononitrate
Isradipine (multiple dosage forms)

L
Lamivudine
Lamivudine; Zidovudine
Lamotrigine (multiple dosage forms)
Levonorgestrel
Liothyronine Sodium
Loratadine
Losartan Potassium

M
Mefloquine HCl
Meloxicam (multiple dosage forms)
Mercaptopurine
Metformin HCl
Metformin HCl; Pioglitazone HCl
Miglustat
Mirtazapine
Modafinil
Moexipril HCl

N
Nabumetone
Nateglinide
Nelfinavir Mesylate
Nevirapine

O
Olanzapine
Olmesartan Medoxomil
Olsalazine Sodium
Omeprazole
Omeprazole Magnesium
Omeprazole; Sodium Bicarbonate
Ondansetron
Ondansetron HCl
Oxcarbazepine (multiple dosage forms)

P
Pantoprazole Sodium
Perindopril Erbumine
Phenytoin
Phenytoin Sodium (multiple dosage forms)

Pilocarpine HCl
Pravastatin Sodium

Q
Quetiapine Fumarate
Quinapril HCl

R
Raloxifene HCI
Ramipril
Ribavirin (multiple dosage forms)
Rifampin
Riluzole
Risedronate Sodium; Calcium Carbonate
Ritonavir
Rizatriptan Benzoate
Rosiglitazone Maleate
Rosuvastatin Calcium

S
Sertraline HCl
Sibutramine HCl
Sildenafil Citrate
Simvastatin
Stavudine
Sulfamethoxazole; Trimethoprim
Sumatriptan Succinate

T
Tamsulosin HCl
Telithromycin
Telmisartan
Terazosin HCl
Terbinafine HCl
Testosterone
Ticlopidine HCl
Tizanidine HCl
Tolterodine Tartrate
Torsemide
Tramadol HCl
Tramadol HCl; Acetaminophen
Trandolapril
Triamterene

V
Valacyclovir HCl
Valsartan
Vardenafil HCl
Verapamil HCl (multiple reference listed drug (RLDs))
Voriconazole

Z
Zaleplon
Zidovudine (multiple dosage forms)
Ziprasidone HCl

For a complete history of previously published **Federal Register** notices, please go to *http://www.regulations.gov* and enter docket number FDA–2007–D–0369.

These guidances are being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidances represent the agency's current thinking on product-specific design of BE studies to support ANDAs. They do not create or confer any rights for or on any person and do not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments on any of the specific BE recommendations posted on FDA's Web

site. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance, notices, and received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/cder/guidance/index.htm* or *http://www.regulations.gov*.

Dated: May 27, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9–13261 Filed 6–5–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; *telephone:* 301–496–7057; *fax:* 301–402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Interactive Venn Diagram Software Designed for Microarray Analysis

Description of Technology: Multiple conditions from any source, but designed for experiments involving microarrays, will produce (significant gene lists for arrays) lists from each condition, thus multiple lists. This Java® based software provides investigators with a method of displaying multiple conditions in a single graphic along with producing a text output of genes that are the product of these conditional intersections along with each conditions unique list. A standard Venn diagram is limited to only display three (3) comparisons; this software can display any number of comparisons and will automatically create lists from all intersections even if not able to be displayed along with each conditions unique list.

Applications:

- Microarray analysis.
- Genomics.
- Bioinformatics.
- Any environment creating multiple lists (Business, Accounting, Inventory Control, etc.).

Inventor: Daniel E. Sturdevant (NIAID).

Patent Status: HHS Reference No. E–189–2009/0—Research Tool. Patent protection is not being pursued for this technology.

Licensing Status: Available for licensing.

Licensing Contact: Michael A. Shmilovich, Esq.; 301–435–5019; *shmilovm@mail.nih.gov.*

Axenically-Produced *Coxiella burnetii* and Methods for Producing Axenic *Coxiella burnetii*

Description of Technology: Coxiella burnetii is the causative agent of Q (Query) fever. Currently, there is a need for a safe Q fever vaccine. It is anticipated that axenically-produced *C. burnetii,* which is free of host cell related impurities, could provide either the basis for a whole-cell Q fever vaccine or advance the development of a safe recombinant Q fever vaccine. Currently, there are no licensed Q-fever vaccines except for a whole-cell, formalin inactivated, vaccine which is available in Australia (Q–Vax). Individuals with a previous exposure to *C. burnetii* may, however, have a severe allergic reaction to this vaccine and other individuals may experience a headache or flu-like symptoms after vaccination. It is anticipated that axenically-produced *C. burnetii* could provide the basis for a less reactogenic whole-cell vaccine or facilitate the development of a recombinant vaccine that does not cause an allergic reaction. Additionally, the inability to propagate obligate intracellular pathogens under axenic (host cell-free) culture conditions imposes severe experimental constraints that have negatively impacted progress in understanding pathogen virulence and disease mechanisms.

Q fever is a zoonotic disease and farm animals, pets, and rodents are significant reservoirs for *C. burnetii. C. burnetii* persists in the soil for a long time and typically humans are exposed to Q fever by the inhalation of the bacterium deposited with animal waste such as urine, feces, and amniotic fluid. The epidemiology of Q fever is diverse and the disease does not discriminate between developed and developing countries. Additionally, urban outbreaks have been known to occur due to windborne *C. burnetii. C. burnetii* is listed as a select agent by the Department of Health and Human Services (HHS) because of its potential as an agent of bioterrorism. Deployed military personnel are also at risk of contracting Q fever and thousands of cases of Q fever have been reported among military personnel since the disease was first reported in the 1930s.

Advantages:

- The ability to propagate, previously unpropagatable, *C. burnetii* without a hostcell.
- The ability to study *C. burnetii* virulence using axenic conditions or conditions free of host cell-related impurities.
- This technology is ready for use in drug/vaccine discovery, production, and development.
- Potential licensees of this invention include companies that are: 1) seeking vaccine production platforms based on host cell-free (axenic) media, 2) seeking to develop recombinant vaccines for obligate, intracellular, bacteria; or 3) seeking to lower costs and ease scale-up would be potential licensees of this technology.

Development Status: This technology has been demonstrated with *C. burnetii.* Currently, the inventors are testing this technology for support of axenic growth of other obligate, intracellular, bacteria of public health significance.

Inventors: Robert A. Heinzen, Anders Omsland, Diane C. Cockrell, Dale Howe (NIAID).

Publication: A Omsland et al. Host cell-free growth of the Q fever bacterium *Coxiella burnetii*. Proc Natl Acad Sci USA. 2009 Mar 17;106(11):4430–4434.

Patent Status: U.S. Provisional Application No. 61/154,330 filed 20 Feb 2009 (HHS Reference No. E–114–2009/0–US–01).

Licensing Status: Available for licensing.

Licensing Contact: Peter A. Soukas, J.D.; 301–435–4646; *soukasp@mail.nih.gov.*

Self-Expanding Stent for Valve Replacement

Description of Technology: Aortic stenosis and aortic regurgitation are the most common types of aortic valvular diseases. Such diseased aortic valves in the body are traditionally replaced with valve prosthesis by an open surgical implantation. Available for licensing and commercial development is intellectual property covering stents for use with valve prostheses. One possible embodiment of the invention includes a self-expandable stent with an elastic tubular latticework having radial and longitudinal direction. The stent geometry and mechanical parameters provide more anatomically-correct placement and the flexible scaffolding of the valve (using an interconnected four-sided polygons and longitudinal rods comprising a self-expanding stent with a plurality of struts connecting a plurality of rods) allow for secure implantation with adaptable apposition of the prosthesis in the aorta.

Applications: Cardiac Surgery; Cardiology; Surgery; Stent implantation.

Inventors: Keith Horvath, Dumitru Mazilu, Ming Li (NHLBI).

Publications:

1. M Li, D Mazilu, KA Horvath. Robotic system for transapical aortic valve replacement with MRI guidance. Med Image Comput Comput Assist Interv Int Conf Med Image Comput Comput Assist Interv. 2008;11(Pt 2):476–484.

2. KA Horvath, M Li, D Mazilu, MA Guttman, ER McVeigh. Real-time magnetic resonance imaging guidance for cardiovascular procedures. Semin Thorac Cardiovasc Surg. 2007 Winter;19(4):330–335. Review.

Patent Status: U.S. Provisional Application No. 61/172,568 filed 24 Apr 2009 (HHS Reference No. E–337–2008/0–US–01).

Licensing Status: Available for licensing.

Licensing Contact: Michael A. Shmilovich, Esq.; 301–435–5019; *shmilovm@mail.nih.gov.*

Collaborative Research Opportunity: The National Heart, Lung, and Blood Institute, Cardiothoracic Surgery Research Program, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this technology. Please contact Peg Koelbe at 301–594–4095 or *koelblep@nhlbi.nih.gov* for more information.

Method of Diagnosing Multidrug Resistant Tuberculosis

Description of Technology: The invention can be used to develop tests that are much more rapid than conventional tests for determining drug resistance. It relates to the discovery that a putative gene of *Mycobacterium tuberculosis* (MTb) with no previously identified function is responsible for the ability of the bacteria to activate a class of second line thioamide drugs used for MTb infections. The gene, termed ''etaA,'' codes for the synthesis of a monooxygenase, the enzyme responsible for the oxidative activation of the drugs. Mutation in the etaA gene leads to the expression of mutated, inactivated enzyme, thus resulting in thioamide drug-resistant bacteria. The significance of this discovery is that now, resistance to the class of thioamide drugs in clinical isolates can be identified in a relatively short time, eliminating the need to perform lengthy culturing procedures.

The invention claims test methods for determining resistance to thioamide drugs by detecting gene mutation. These include (a) amplifying the etaA gene or a portion of it containing the mutation, with a set of primers which provide amplified product, and sequencing the amplified product to compare the sequence with a known sequence of the wild-type etaA; a difference in sequence patterns indicates mutation; (b) subjecting the amplified gene product to digestion by restriction enzymes and comparing the cleaved DNA gel pattern to the one obtained from digestion of the wild-type etaA gene; a difference indicates mutation in etaA; and (c) detecting the mutations by probe hybridization techniques, where the amplified product hybridizes to a nucleic acid of known sequence under stringent conditions, and the hybridized product is detected. In addition to the above, the invention proposes other detection methods such as commonly used for SNPs. Other methods claimed in the invention are immunoassay (*i.e.*, ELISA) for the etaA gene product or mutated versions of it, or immunoassay and chemical analysis of the drug metabolites, whereby the absence of the metabolites indicates gene mutation and impaired activating ability.

Applications: Infectious diseases, diagnostics (bacterial); Infectious diseases, therapeutics (anti-bacterial).

Advantages: Novel methods for diagnosing multidrug resistant tuberculosis that are much more rapid than conventional tests.

Inventors: Clifton E. Barry III (NIAID), Andrea E. DeBarber (NIAID), Khisimuzi Mdluli (NIAID), *et al.*

Publication: AE DeBarber *et al.* Ethionamide activation and sensitivity in multidrug-resistant Mycobacterium tuberculosis. Proc Natl Acad Sci U S A. 2000 Aug 15;97(17):9677–9682.

Patent Status:

- U.S. Patent No. 6,905,822 issued 14 Jun 2005 (HHS Reference No. E–093–2000/0–US–02).
- U.S. Patent Application No. 11/058,484 filed 14 Feb 2005 and allowed 17 Feb 2009 (HHS Reference No. E–093–2000/0–US–03).

Licensing Status: Available for licensing.

Licensing Contact: RC Tang, JD, LLM; 301–435–5031; *tangrc@mail.nih.gov*

A Novel Chimeric Protein for Prevention and Treatment of HIV Infection

Description of Technology: This invention relates to bifunctional fusion proteins effective in HIV neutralization. Specifically, the invention is a genetically engineered chimeric protein composed of a soluble extracellular region of human CD4 (sCD4) attached via a flexible polypeptide linker to a single-chain construct of a human monoclonal antibody directed against a CD4-induced, highly conserved gp120 determinant involved in co-receptor interaction and virus entry. Mechanistically, the binding of the sCD4 moiety to the HIV gp120 Env glycoprotein induces a conformational change that enables the antibody moiety to bind, thereby blocking Env function and virus entry. This novel design provides the protein with unique characteristics that enable its extremely strong binding to gp120, thus rendering it a potential effective antiviral agent against HIV. Recent studies indicate that this novel bispecific protein displays extremely broad neutralizing activity against genetically diverse primary HIV–1 isolates, with breadth much greater than previously described (Dey *et al.* J. Virology 2003). The potency is generally at least 10-fold greater than the best described HIV–1 neutralizing monoclonal antibodies, and the protein is highly active against many HIV–1 isolates that are refractory to neutralization by these antibodies. Importantly, the protein is composed of almost entirely human sequences.

The chimeric protein of this invention has considerable potential for prevention of HIV–1 infection, both as a topical microbicide and as a systemic agent to protect during and after acute exposure (*e.g.* vertical transmission, post exposure prophylaxis). It also has potential utility for treatment of chronic infection, including gene therapy strategies involving hematopoietic stem cells and/or viral vectors. Such proteins, nucleic acid molecules encoding them, and their production and use in

preventing or treating viral infections are claimed in the patents issued for this invention.

Applications:

• Prophylactic and/or therapeutic treatment for HIV infection.

• Topical microbicide treatment to protect against HIV infection.

• Imaging of HIV infected cells in tissues.

Advantages:

• High neutralization efficiency due to unique bifunctional binding characteristics.

• Potentially minimally immunogenic or toxic (human sequences and possibly low treatment doses).

• Broad neutralizing activity.

• Mechanism of action less susceptible to resistance.

Development Status:

• Reproducible production and scale-up of chimeric protein has been demonstrated.

• Potent and broad neutralization of genetically diverse HIV–1 clinical isolates was demonstrated.

Market: The race to develop effective antiviral strategies against HIV infection is ongoing. The problems exhibited by conventional drugs (*i.e.* toxicity and resistance) have triggered the pursuit of alternative approaches to HIV/AIDS prevention and treatment. One of the new approaches is the development of neutralizing antibodies against the HIV envelope proteins. This approach has not yet yielded any commercially viable treatment. It is believed that the approach presented in the subject invention will circumvent many of the shortcomings of the existing drugs and other pursued approaches. If this approach is successful the commercial rewards will be huge because of the global magnitude of HIV epidemics.

Inventor: Edward A. Berger (NIAID).

Publication: B Dey, CS Del Castillo, EA Berger. Neutralization of human immunodeficiency virus type 1 by sCD4–17b, a single-chain chimeric protein, based on sequential interaction of gp120 with CD4 and coreceptor. J Virol. 2003 March;77(5):2859–2865.

Patent Status:

HHS Reference No. E–039–1999/0—

• U.S. Patent No. 7,115,262, issued 03 October 2006.

• U.S. Application No. 11/535,957, filed 27 September 2006, published 18 October 2007 as 20070243208.

• Australian Patent No. 765218, issued 30 July 2003.

• Applications pending in Canada, France, Germany, Great Britain, Italy, Japan, Spain.

Licensing Status: Available for licensing.

Licensing Contacts: Uri Reichman, Ph.D, MBA; 301–435–4616; *ur7a@nih.gov*; RC Tang, JD, LLM; 301–435–5031; tangrc@mail.nih.gov.

Collaborative Research Opportunity: The NIAID Office of Technology Development is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize ''A Novel Chimeric Protein for Prevention and Treatment of HIV Infection.'' Please contact Rick Williams at 301–402–0960 for more information.

Dated: June 1, 2009.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E9–13284 Filed 6–5–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–D–0217]

Guidance for Industry on Medication Guides—Adding a Toll-Free Number for Reporting Adverse Events; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''Medication Guides—Adding a Toll-Free Number for Reporting Adverse Events.'' Beginning July 1, 2009, manufacturers of prescription drug products approved under the Federal Food, Drug, and Cosmetic Act (the act) that are required to have a Medication Guide must add a verbatim statement to their Medication Guides containing FDA's toll-free number for reporting side effects. These manufacturers are also required to report to FDA that they have complied with this requirement. This guidance explains what statement to add to Medication Guides, where to add it, and how to notify the agency that such a statement has been added.

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of this draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Nancy Clark, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301–796–5400, *Nancy.Clark@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Medication Guides—Adding a Toll-Free Number for Reporting Adverse Events.'' On September 27, 2007, the President signed into law the Food and Drug Administration Amendments Act (FDAAA) (Public Law 110–85). Among other things, FDAAA reauthorized the Best Pharmaceuticals for Children Act (BPCA) (Public Law 107–109). When enacted in 2001, the BPCA directed FDA to issue a final rule requiring the labeling of each human drug product for which an application is approved under section 505 of the act (21 U.S.C. 355) to include: (1) A toll-free number maintained by FDA for the purpose of receiving reports of adverse events regarding drugs and (2) a statement that the number is to be used for reporting purposes only, not to receive medical advice. The BPCA stated that the final rule must reach the broadest consumer audience and minimize the cost to the pharmacy profession. As required, FDA issued a proposed rule entitled ''Toll-Free Number for Reporting Adverse Events on Labeling for Human Drug Products'' (69 FR 21778, April 22, 2004), which would require, among other things, that a side effects statement be included in FDA-approved Medication Guides for drug products approved under section 505 of the act.

FDA received 22 comments on this proposed rule and was in the process of analyzing the comments and conducting research on consumer comprehension of the side effects statement when FDAAA was enacted. Section 502(f) of FDAAA stated that ''the proposed rule * * * entitled 'Toll-Free Number for Reporting Adverse Events on Labeling for Human Drug Products' * * * shall take effect on January 1, 2008,'' unless FDA issues a final rule before that date. FDA did not issue a final rule by January 1, 2008, so

as mandated by FDAAA, the provisions of the proposed rule went into effect on that date.

FDAAA mandated one change to the proposed rule. Section 502(f)(2) of FDAAA stated that the toll-free number proposed rule shall not apply to over-the-counter (OTC) drugs marketed with an application approved under section 505 of the act (application OTC drug products) if these application OTC drug products meet certain labeling requirements. Because the agency's rulemaking process was ongoing on January 1, 2008, an interim final rule was issued on January 3, 2008 (73 FR 402) that codified the provisions of the proposed rule as modified by FDAAA. The interim final rule stated that FDA anticipated that affected entities would need time to update labeling and systems to comply with the new requirements and that FDA intended to exercise its enforcement discretion and not take action to enforce the toll-free number requirements in the interim final rule until January 1, 2009. The interim final rule also stated that the agency planned to complete research begun on the proposed labeling statements and would issue a final rule taking into account the results of that research. In the **Federal Register** of October 28, 2008 (73 FR 63886), FDA issued a final rule with an effective date of November 28, 2008, and a compliance date of July 1, 2009. The agency is publishing this guidance to assist manufacturers in complying with the final rule.

This level 1 guidance is being issued for immediate implementation consistent with FDA's good guidance practices regulation (21 CFR 10.115). FDA has determined that prior public participation is not feasible or appropriate because the side effects statement is required by Congress and the compliance deadline for its inclusion in Medication Guides is July 1, 2009 (21 CFR 10.115(g)(2)). If comments are received on this level 1 guidance, FDA will review the comments and revise the guidance if appropriate. The guidance represents the agency's current thinking on adding a toll-free number to Medication Guides and reporting this to the agency. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. The Paperwork Reduction Act of 1995

The required side effects statement is not subject to the Office of Management and Budget (OMB) review under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501–3520) because it is ''originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public'' and is not considered a collection of information under the PRA (5 CFR 1320.3(c)(2)). The guidance on notifying FDA in the drug's annual report that the side effects statement has been added to the drug's Medication Guide is covered by previously approved collections of information found in FDA regulations. The collections of information in 21 CFR 314.70(d) (changes to an approved application to be described in an annual report) and 314.81(b)(2)(iii)(c) (a summary of labeling changes that have been made since the last annual report) have been approved under OMB control number 0910–0001 for human drugs.

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov*.

Dated: June 1, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9–13273 Filed 6–5–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Maternal Child Health Bureau, Healthy Start Eliminating Disparities in Perinatal Health

AGENCY: Health Resources and Services Administration (HRSA), U.S. Department of Health and Human Services.

ACTION: Notice of Non-competitive Supplemental Funding to Northern Manhattan Perinatal Partnership.

SUMMARY: The Health Resources and Services Administration (HRSA) is issuing non-competitive supplemental funding under the Maternal Child Health Bureau, Healthy Start Eliminating Disparities in Perinatal Health program to ensure that the Northern Manhattan Perinatal Partnership (NMPP), the primary provider of prenatal services in Central Harlem, can continue to provide much needed services to help stem the rise in and ultimately reduce the Infant Mortality Rate (IMR) in the affected service area.

SUPPLEMENTARY INFORMATION:

Intended Recipient of the Award: Northern Manhattan Perinatal Partnership.

Amount of the Non-Competitive Supplemental Funding: $510, 417.

Project Period: The original project period for this grant is through May 31, 2009.

Period of Supplemental Support: June 1, 2009 through January 31, 2010.

Authority: This activity is under the authority of the Public Health Service Act, Section 33OH.

Catalogue of Federal Domestic Assistance Number: 93.926.

Justication for Non-Competitive Supplemental Funding

Northern Manhattan Perinatal Partnership (NMPP), known as Central Harlem Healthy Start, has historically been the primary provider of prenatal services in Central Harlem and has been highly effective in reducing the high rate of infant morality (IMR) in that project/service area. As a consequence of NMPP's leadership and collaborated efforts with other providers in the community, the IMR has declined significantly in Central Harlem since the initiation of the project in 1990 when it was 27.7 infant deaths per 1,000 live births. By 2001, the IMR had dropped to 13.1 infant deaths per 1,000 live births, 54% less than the 1990 rate. The IMR in Central Harlem from 2002 to 2004 showed a decline from the previous years; however, there were fluctuations in the rate of decline in the community. The IMR was at a low of 6.2% in 2002 and increased to 7.3% in 2003, and then in 2004, decreased to 5.1%. The apparent trend in the following two years saw a steady increase to 7.4% for 2005 and 11.2% for 2006. An additional indicator of this trend is the escalating IMR for teen births which saw an increase in the 3 year average from

2002–2004 of 5.93% increase to 12.54% for 2005–2007.

The reduction in the earlier years IMR (2002–2004) for Central Harlem made them ineligible for the FY 2009 Healthy Start Eliminating Disparities Open competition. To be eligible, the IMR for the service area had to be 1.5 times the national average for the period of 2002–2004 or 10.35. In FY 2010 there will be another Healthy Start Eliminating Disparities Open competition and grantees will be required to the use the most recently available IMR data (2004–2006 or 2005–2007) to compete. To be eligible for the competition, grantees will have to have an IMR that is 1.5 times the national average for the project area for either 2004–2006 or 2005–2007. Data supplied the New York City Bureau Statistics indicates that Central Harlem would be eligible for this competition because they have 12.54% IMR for teen births for 2005–2007.

The award of non-competitive supplemental funding will enable NMPP to provide much need services in Central Harlem. Given the current economic situation and the rising IMR rate in the project area, the loss of this experienced provider of health services would be devastating and would contribute to the rise in infant deaths in Central Harlem, NMPP is the primary provider of comprehensive community-based perinatal services and the only Healthy Start site serving the project area. The project's dedication and commitment to the residents of Harlem since 1999 could not be replaced another community based provider.

FOR FURTHER INFORMATION CONTACT: John McGovern, Public Health Analyst, Division of Healthy Start and Perinatal Services, Maternal and Child Health Bureau, HRSA, Room 18–12, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857; phone 301–443–5805; E-mail *jmcgovern@hrsa.gov.*

Dated: May 29, 2009.

Mary K. Wakefield,

Administrator.

[FR Doc. E9–13279 Filed 6–5–09; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel Competitive Revision—ARRA Funds.

Date: June 11, 2009.

Time: 1:45 p.m. to 3:45 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, Room 3AN18, 45 Center Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Rebecca H Johnson, PhD, Scientific Review Administrator, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN18C, Bethesda, MD 20892. 301–594–2771. *johnsonrh@nigms.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS)

Dated: June 1, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–13199 Filed 6–5–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel—Program Project.

Date: July 10, 2009.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Democracy II, 6701 Democracy Plaza II, 200, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: John K. Hayes, PhD, Scientific Review Officer, 6707 Democracy Boulevard, Suite 959, Bethesda, MD 20892, 301–451–3398, *hayesj@mail.nih.gov.*

Dated: June 1, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–13282 Filed 6–5–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel. Animal Models of Infectious Diseases 1.

Date: June 29–July 1, 2009.

Time: 8 a.m. to 7 p.m.

Agenda: To review and evaluate contract proposals.

Place: Crowne Plaza—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Tracy A. Shahan, PhD, MBA, Scientific Review Officer, Scientific Review Program, NIH/NIAID/DHHS, Room 3121, 6700B Rockledge Drive, MSC 7616,

Bethesda, MD 20892–7616. 301–451–2606. *tshahan@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 1, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–13285 Filed 6–5–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Review of a Th17 Autoimmunity Program Project Application.

Date: June 23, 2009.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Quirijn Vos, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, NIH/NIAID/DHHS, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892, 301–451–2666, *qvos@niaid.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Microbiology, Infectious Diseases and AIDS Initial Review Group; Microbiology and Infectious Diseases Research Committee.

Date: June 25, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Annie Walker-Abbey, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, NIH/NIAID/DHHS, 6700B Rockledge Drive, Rm. 3126, Bethesda, MD 20892–7616, 301–451–2671, *aabbey@niaid.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 1, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–13287 Filed 6–5–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, July 13, 2009, 8 a.m. to July 13, 2009, 5 p.m., Washingtonian Center Courtyard, 204 Boardwalk Place, Gaithersburg, MD 20878 which was published in the **Federal Register** on May 27, 2009, 74 FR 12248.

The meeting has been changed to July 14, 2009, from 8 a.m. to 4 p.m. The location remains the same. The meeting is closed to the public.

Dated: June 1, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–13289 Filed 6–5–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0664]

Cardiovascular and Renal Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Cardiovascular and Renal Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on July 28, 2009, from 8 a.m. to 5 p.m.

Location: Hilton Washington DC/Silver Spring, Maryland Ballroom, 8727 Colesville Rd, Silver Spring, MD. The hotel telephone number is 301–589–5200.

Contact Person: Elaine Ferguson, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, FAX: 301–827–6776, e-mail: *elaine.ferguson@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512533. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: The committee will discuss new drug application (NDA) 22–449, binodenoson injectable, lypholized solid 250 micrograms vial, King Pharmaceuticals Research and Development, Inc., for the proposed indication: Short acting coronary vasodilator for use as an adjunct to noninvasive myocardial perfusion imaging tests to detect perfusion abnormalities in patients with known or suspected coronary artery disease.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm*, click on the year 2009 and scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before July 14, 2009. Oral presentations from the public will be scheduled between approximately 1 p.m. to 2 p.m. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before July 6, 2009. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by July 7, 2009.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Elaine Ferguson at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 29, 2009.

Randy W. Lutter,

Deputy Commissioner for Policy.

[FR Doc. E9–13315 Filed 6–5–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Injury Prevention and Control Initial Review Group, (NCIPC IRG)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announce the following meeting of the aforementioned committee:

Times and Date: 12:15 p.m.–12:30 p.m., June 30, 2009 (Open)

12:30 p.m.–2:30 p.m., June 30, 2009 (Closed)

Place: Teleconference, Toll Free: 888–793–2154, *Participant Passcode:* 4424802.

Status: Portions of the meetings will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5, U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Section 10(d) of Public Law 92–463.

Purpose: This group is charged with providing advice and guidance to the Secretary, Department of Health and Human Services, and the Director, CDC, concerning the scientific and technical merit of grant and cooperative agreement applications received from academic institutions and other public and private profit and nonprofit organizations, including State and local government agencies, to conduct specific injury research that focuses on prevention and control.

Matters to be Discussed: The meeting will include the review, discussion, and evaluation of individual research cooperative agreement applications submitted in response to Fiscal Year 2009 Requests for Applications related to the following individual research announcement: RFA–CD–09–001 ''Translating Research to Protect Health through Health Promotion, Prevention, and Preparedness (R18)'' for the National Center for Environmental Health (NCEH/CDC) applications.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Jane Suen, Dr.P.H., M.S., NCIPC, CDC, 4770 Buford Highway, NE., Mailstop F–62, Atlanta, Georgia 30341. *Telephone:* (770) 488–4281.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: May 27, 2009.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E9–13280 Filed 6–5–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Radiation Meeting.

Date: June 15, 2009.

Time: 11 a.m to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Sally A. Mulhern, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892. (301) 435–5877. *mulherns@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Shared Instrumentation Imaging.

Date: June 16–17, 2009.

Time: 7:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Express Hotel and Suites, San Francisco Fisherman's Wharf, 550 North Point Street, San Francisco, CA 94133.

Contact Person: Dharam S. Dhindsa, DVM, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5110, MSC 7854, Bethesda, MD 20892. (301) 435–1174. *dhindsad@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, BMIT/MEDI Member Conflict Review.

Date: June 16, 2009.

Time: 10:30 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Weihua Luo, MD, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, MSC 7854, Bethesda, MD 20892. (301) 435–1170. *luow@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cancer Biomarkers Adjunct Meeting.

Date: June 16, 2009.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.

Contact Person: Mary Bell, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6183, MSC 7802, Bethesda, MD 20892. 301–435–1213. *bellmar@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Tumor Progression and Metastasis ARRA CR.

Date: June 16, 2009.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Westin Seattle Hotel, 1900 Fifth Avenue, Seattle, WA 98101.

Contact Person: Manzoor Zarger, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6208, MSC 7804, Bethesda, MD 20892. (301) 435–2477. *zargerma@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Transformative R01 RFA# RM08–029.

Date: June 17, 2009.

Time: 8 a.m to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: John L. Bowers, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4170, MSC 7806, Bethesda, MD 20892. (301) 435–1725. *bowersj@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Transformative R01 RFA #RM08–029.

Date: June 17, 2009.

Time: 8 a.m to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: John L. Bowers, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4170, MSC 7806, Bethesda, MD 20892. (301) 435–1725. *bowersj@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Neuropharmacology.

Date: June 18–19, 2009.

Time: 7 a.m to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Delfina Hotel, 530 West Pico Boulevard, Santa Monica, CA 90405.

Contact Person: Aidan Hampson, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5199, MSC 7850, Bethesda, MD 20892. (301) 435–0634. *hampsona@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Competitive Revision: Neuropharmacology.

Date: June 18, 2009.

Time: 7 a.m to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Delfina Hotel, 530 West Pico Boulevard, Santa Monica, CA 90405.

Contact Person: Aidan Hampson, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5199, MSC 7850, Bethesda, MD 20892. (301) 435–0634. *hampsona@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Vascular and Hematology Integrated Review Group, Erythrocyte and Leukocyte Biology Study Section.

Date: June 18, 2009.

Time: 8 a.m to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Mayflower Park Hotel, 405 Olive Way, Seattle, WA 98101.

Contact Person: Delia Tang, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7802, Bethesda, MD 20892. 301–435–2506. *tangd@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group, Cardiovascular Differentiation and Development Study Section.

Date: June 18–19, 2009.

Time: 8 a.m to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.

Contact Person: Maqsood A. Wani, PhD, DVM, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7814, Bethesda, MD 20892. 301–435–2270. *wanimaqs@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Bacterial Pathogenesis Study Section.

Date: June 18–19, 2009.

Time: 8 a.m to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Luxury Hotel and Suites, 2033 M Street, NW., Washington, DC 20036.

Contact Person: Richard G. Kostriken, PhD, Scientific Review Officer, Center For Scientific Review, National Institutes Of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892. (301) 402–4454. *kostrikr@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Therapeutic Approaches to Genetic Diseases Study Section (TAG) SEP.

Date: June 18, 2009.

Time: 8 a.m to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC 20037.

Contact Person: Michael K. Schmidt, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2214, MSC 7890, Bethesda, MD 20892. (301) 435–1147. *mschmidt@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Bacterial Pathogenesis Study Section.

Date: June 18–19, 2009.

Time: 8 a.m to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: St Gregory Luxury Hotel and Suites, 2033 M Street, NW., Washington, DC 20036.

Contact Person: Joanna M. Pyper, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3208, MSC 7808, Bethesda, MD 20892. 301–435–1151. *pyperj@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, F07 Immunology Fellowship and AREA.
Date: June 18–19, 2009.
Time: 8 a.m to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Jin Huang, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4199, MSC 7812, Bethesda, MD 20892. 301–435–1230. *jh377p@nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowships: Biophysical and Physiological Neuroscience.
Date: June 18–19, 2009.
Time: 8 a.m to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Doubletree Hotel Washington, DC, 1515 Rhode Island Avenue, NW., Washington, DC 20005.
Contact Person: Eugene Carstea, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5199, MSC 7846, Bethesda, MD 20892. (301) 435–0634. *carsteae@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Medical Imaging.
Date: June 18–19, 2009.
Time: 8 a.m to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Jurys Doyle Hotel, 1500 New Hampshire Avenue, NW., Washington, DC 20036.
Contact Person: Leonid V. Tsap, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7854, Bethesda, MD 20892. (301) 435–2507. *tsapl@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Vascular and Hematology Integrated Review Group, Hemostasis and Thrombosis Study Section.
Date: June 18–19, 2009.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Bukhtiar H. Shah, PhD, DVM, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7802, Bethesda, MD 20892. (301) 435–1233. *shahb@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Chemical and Bioanalytical Sciences Fellowships.
Date: June 18–19, 2009.
Time: 8:30 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Doubletree Hotel & Executive Meeting Center, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Denise Beusen, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7806, Bethesda, MD 20892. (301) 435–1267. *beusend@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group, Risk, Prevention and Intervention for Addictions Study Section.
Date: June 18–19, 2009.
Time: 8:30 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Washington Plaza, 10 Thomas Circle, NW., Washington, DC 20005.
Contact Person: Gayle M. Boyd, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3141, MSC 7808, Bethesda, MD 20892. 301–451–9956. *gboyd@mail.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Erythrocyte and Leukocyte Biology ARRA CR.
Date: June 18, 2009.
Time: 4 p.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Mayflower Park Hotel, 405 Olive Way, Seattle, WA 98101.
Contact Person: Delia Tang, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7802, Bethesda, MD 20892. 301–435–2506. *tangd@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Biomedical Sensing, Measurement and Instrumentation SBIR.
Date: June 19–20, 2009.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Guo Feng Xu, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5122, MSC 7854, Bethesda, MD 20892. 301–435–1032. *xuguofen@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Sensory, Motor and Cognitive Neuroscience Fellowship Study Section.
Date: June 19, 2009.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: One Washington Circle Hotel, One Washington Circle, NW., Washington, DC 20037.
Contact Person: John Bishop, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892. (301) 435–1250. *bishopj@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Dental and Enamel: Developmental Biology.
Date: June 19, 2009.
Time: 11 a.m to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Tamizchelvi Thyagarajan, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4016K, MSC 7814, Bethesda, MD 20892. 301–451–1327. *tthyagar@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Risk and Prevention for Addictions.
Date: June 19, 2009.
Time: 1 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Washington Plaza Hotel, 10 Thomas Circle, NW., Washington, DC 20005.
Contact Person: Gayle M. Boyd, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3141, MSC 7808, Bethesda, MD 20892. 301–451–9956. *gboyd@mail.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflicts: Social Psychology, Personality, and Interpersonal Processes.
Date: June 19, 2009.
Time: 3 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Karen Lechter, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3128, MSC 7759, Bethesda, MD 20892. 301–496–0726. *lechterk@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Bacterial Pathogenesis.

Date: June 19, 2009.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Luxury Hotel, 2033 M Street, NW., Washington, DC 20036.

Contact Person: Richard G. Kostriken, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892. 301–402–4454. *kostrikr@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Development Methods of In Vivo Imaging and Bioengineering Research.

Date: June 22, 2009.

Time: 8 a.m to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Behrouz Shabestari, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, MSC 7854, Bethesda, MD 20892. (301) 435–2409. *shabestb@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowships: Brain Disorders and Related Neuroscience.

Date: June 22–23, 2009.

Time: 8 a.m to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle Hotel, One Washington Circle, Washington, DC 20037.

Contact Person: Geoffrey G. Schofield, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040–A, MSC 7850, Bethesda, MD 20892. 301–435–1235. *geoffreys@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Competitive Revisions.

Date: June 22–23, 2009.

Time: 8 a.m to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Mike Radtke, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7806, Bethesda, MD 20892. 301–435–1728. *radtkem@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Drug Discovery and Development Small Business Panel.

Date: June 22–23, 2009.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin St. Francis, 335 Powell Street, San Francisco, CA 94102.

Contact Person: Sergei Ruvinov, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892. 301–435–1180. *ruvinser@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflicts: Social Science and Population Studies.

Date: June 22, 2009.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Suzanne Ryan, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, Bethesda, MD 20892. (301) 435–1712. *ryansj@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Vivo Imaging and Bioengineering Research Study Section.

Date: June 22, 2009.

Time: 5 p.m. to 9 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Behrouz Shabestari, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, MSC 7854, Bethesda, MD 20892. (301) 435–2409. *shabestb@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Devices and Detection Systems.

Date: June 23–24, 2009.

Time: 8 a.m to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin St. Francis, 335 Powell Street, San Francisco, CA 94102.

Contact Person: Alexander Gubin, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4196, MSC 7812, Bethesda, MD 20892. 301–435–2902. *gubina@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Molecule Probes for the Nervous System.

Date: June 23, 2009.

Time: 8 a.m to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.

Contact Person: Mary Custer, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7850, Bethesda, MD 20892–7850. (301) 435–1164. *custerm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Shared Instrumentation Imaging.

Date: June 23, 2009.

Time: 8 a.m to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Behrouz Shabestari, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, MSC 7854, Bethesda, MD 20892. (301) 435–2409. *shabestb@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Drug Discovery Competitive Revisions.

Date: June 23, 2009.

Time: 3:30 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.

Contact Person: Mary Custer, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7850, Bethesda, MD 20892–7850. (301) 435–1164. *custerm@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 1, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–13278 Filed 6–5–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Review of Challenge Grants.

Date: June 11, 2009.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Loews Annapolis Hotel, 126 West Street, Annapolis, MD 21401.

Contact Person: Bob Weller, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3160, MSC 7770, Bethesda, MD 20892, (301) 435–0694, *wellerr@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ARRA Competitive Revisions in Genetics.

Date: June 12, 2009.

Time: 3:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle Hotel, One Washington Circle, Washington, DC 20037.

Contact Person: Cheryl M. Corsaro, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2204, MSC 7890, Bethesda, MD 20892, (301) 435–1045, *corsaroc@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 1, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–13277 Filed 6–5–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; ARRA Supplement Applications.

Date: July 22, 2009.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call)

Contact Person: D. G. PATEL, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 756, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7682, *pateldg@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HS)

Dated: June 1, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–13288 Filed 6–5–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Advisory Board, June 11–12, 2009, 8 a.m. to 12 p.m., National Institutes of Health, Building 31, 31 Center Drive, Bethesda, MD 20892, which was published in the **Federal Register** on May 14, 2009, 74 FR 22753.

This notice is amended to change the times of the open session on June 11, 2009 to 8:30 a.m. to 3:30 p.m. and the closed session to 3:30 p.m. to 5 p.m. Additionally, the open session on June 12, 2009 has been cancelled.

Dated: May 28, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–13274 Filed 6–5–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Pain, Morphine and the Developing Brain: School Age Outcomes.

Date: July 2, 2009.

Time: 12 p.m. to 4 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852, Telephone Conference Call).

Contact Person: Peter Zelazowski, PhD, Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver

National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Rm. 5B01, Bethesda, MD 20892–7510, 301–435–6902, *peter.zelazowski@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 1, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–13286 Filed 6–5–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; ZGM1–PPBC–5–CP.

Date: June 23–24, 2009.

Time: 6 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Carolina Inn, 211 Pittsboro Street, Chapel Hill, NC 27516.

Contact Person: Brian R. Pike, PhD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18, Bethesda, MD 20892, 301–594–3907, *pikbr@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: June 1, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–13200 Filed 6–5–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: User Fees

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day Notice and request for comments; Extension of an existing information collection: 1651–0052.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: User Fees. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (74 FR 12877) on March 25, 2009, 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 1320.10.

DATES: Written comments should be received on or before July 8, 2009.

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 Department of Homeland Security/Customs and Border Protection, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: U.S. Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L.104–13). Your comments should address one of the following four points:

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

(2) Evaluate the accuracy of the agencies'/components' 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 collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Title: User Fees.

OMB Number: 1651–0052.

Form Number: CBP Forms 339A, 339C and 339V.

Abstract: The information collected on the User Fee Forms 339A, 339C and 339V is necessary in order for CBP to collect the proper amount of fees from private and commercial vessels, private aircraft, operators of commercial trucks, and passenger and freight railroad cars entering the United States. This collection of information also applies to reports filed by user fee express consignment operators.

Current Actions: This submission is being made to extend the expiration date with a change to the burden hours to allow for revisions to Form 339C for commercial vehicles.

Type of Review: Extension (with change).

Affected Public: Businesses or other for-profit institutions.

Estimated Number of Respondents: 75,030.

Estimated Number of Annual Responses: 75,110.

Estimated Time per Response: 18.5 minutes.

Estimated Total Annual Burden Hours: 23,562.

If additional information is required contact: Tracey Denning, U.S. Customs and Border Protection, Office of Regulations and Rulings, 799 9th Street, NW., 7th Floor, Washington, DC 20229–1177, at 202–325–0265.

Dated: June 3, 2009.

Tracey Denning,

Agency Clearance Officer, Customs and Border Protection.

[FR Doc. E9–13339 Filed 6–5–09; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Exxon Valdez Oil Spill Trustee Council; Notice of Meeting

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: The Department of the Interior, Office of the Secretary is announcing a public meeting of the Exxon Valdez Oil Spill Public Advisory Committee.

DATES: June 25, 2009, at 10:30 a.m.

ADDRESSES: Exxon Valdez Oil Spill Trustee Council Office, 441 West 5th Avenue, Suite 500, Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: Douglas Mutter, Department of the Interior, Office of Environmental Policy and Compliance, 1689 ''C'' Street, Suite 119, Anchorage, Alaska 99501, (907) 271–5011.

SUPPLEMENTARY INFORMATION: The Public Advisory Committee was created by Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America and the State of Alaska on August 27, 1991, and approved by the United States District Court for the District of Alaska in settlement of *United States of America* v. *State of Alaska,* Civil Action No. A91–081 CV. The meeting agenda will include a review of the draft fiscal year 2010 work plan and budget.

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

[FR Doc. E9–13174 Filed 6–5–09; 8:45 am]

BILLING CODE 4310–RG–P

DEPARTMENT OF THE INTERIOR

Request for Nominations for the Invasive Species Advisory Committee

AGENCY: Office of the Secretary, National Invasive Species Council.

ACTION: Request for Nominations for the Invasive Species Advisory Committee.

SUMMARY: The U.S. Department of the Interior, on behalf of the interdepartmental National Invasive Species Council, proposes to appoint new members to the Invasive Species Advisory Committee (ISAC). The Secretary of the Interior, acting as administrative lead, is requesting nominations for qualified persons to serve as members of the ISAC.

DATES: Nominations must be postmarked by July 23, 2009.

ADDRESSES: Nominations should be sent to Dr. Christopher Dionigi, Acting Executive Director, National Invasive Species Council (OS/NISC), Regular Mail: 1849 C Street, NW., Washington, DC 20240; *Express Mail:* 1201 Eye Street, NW., 5th Floor, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Kelsey Brantley, Program Analyst and ISAC Coordinator, at (202) 513–7243, fax: (202) 371–1751, or by e-mail at *Kelsey_Brantley@ios.doi.gov.*

SUPPLEMENTARY INFORMATION:

Advisory Committee Scope and Objectives

The purpose and role of the ISAC are to provide advice to the National Invasive Species Council (NISC), as authorized by Executive Order 13112, on a broad array of issues including preventing the introduction of invasive species, providing for their control, and minimizing the economic, ecological, and human health impacts that invasive species cause. NISC is Co-chaired by the Secretaries of the Interior, Agriculture, and Commerce, and is charged with providing coordination, planning and leadership regarding invasive species issues. Pursuant to the Executive Order, NISC developed a 2008–2012 National Invasive Species Management Plan (Plan), which is available on the Web at *http://www.invasivespeciesinfo.gov/council/nmp.shtml.* NISC is responsible for effective implementation of the Plan including any revisions of the Plan, and also coordinates Federal agency activities concerning invasive species; encourages planning and action at local, tribal, State, regional and ecosystem-based levels; develops recommendations for international cooperation in addressing invasive species; facilitates the development of a coordinated network to document, evaluate, and monitor impacts from invasive species; and facilitates establishment of an information-sharing system on invasive species that utilizes, to the greatest extent practicable, the Internet.

The role of ISAC is to maintain an intensive and regular dialogue regarding the aforementioned issues. ISAC provides advice in cooperation with stakeholders and existing organizations addressing invasive species. The ISAC meets up to three (3) times per year.

Terms for five of the current members of the ISAC will expire in October 2009. After consultation with the other members of NISC, the Secretary of the Interior will actively solicit new nominees and appoint members to ISAC. Prospective members of ISAC should be knowledgeable in and represent one or more of the following communities of interests: Weed science, fisheries science, rangeland management, forest science, entomology, nematology, plant pathology, veterinary medicine, the broad range of farming or agricultural practices, biodiversity issues, applicable laws and regulations relevant to invasive species policy, risk assessment, biological control of invasive species, public health/epidemiology, industry activities, international affairs or trade, tribal or State government interests, environmental education, ecosystem monitoring, natural resource database design and integration, and Internet-based management of conservation issues.

Prospective nominees should also have practical experience in one or more of the following areas: Representing sectors of the national economy that are significantly threatened by biological invasions (*e.g.,* agriculture, fisheries, public utilities, recreational users, tourism, etc.); representing sectors of the national economy whose routine operations may pose risks of new or expanded biological invasions (*e.g.,* shipping, forestry, horticulture, aquaculture, pet trade, *etc.*); developing natural resource management plans on regional or ecosystem-level scales; addressing invasive species issues, including prevention, control and monitoring, in multiple ecosystems and on multiple scales; integrating science and the human dimension in order to create effective solutions to complex conservation issues including education, outreach, and public relations experts; coordinating diverse groups of stakeholders to resolve complex environmental issues and conflicts; and complying with NEPA and other Federal requirements for public involvement in major conservation plans. Members will be selected in order to achieve a balanced representation of viewpoints, so to effectively address invasive species issues under consideration. No member may serve on the ISAC for more than two (2) consecutive terms. All terms will be limited to three (3) years in length.

Members of the ISAC and its subcommittees serve without pay. However, while away from their homes or regular places of business in the performance of services of the ISAC, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the government service, as authorized by

section 5703 of Title 5, United States Code.

Note: Employees of the Federal Government are not eligible for nomination or appointment to ISAC.

Submitting Nominations

Nominations should be typed and must include each of the following:

1. A brief summary of no more than two (2) pages explaining the nominee's suitability to serve on the ISAC.
2. A résumé or curriculum vitae.
3. At least two (2) letters of reference.

All required documents must be compiled and submitted in one complete nomination package. This office will not assemble nomination packages from documentation sent piecemeal. Incomplete submissions (missing one or more of the items described above) will not be considered. Nominations should be postmarked no later than July 23, 2009, to Dr. Christopher Dionigi, Acting Executive Director, National Invasive Species Council (OS/NISC), *Regular Mail:* 1849 C Street, NW., Washington, DC 20240; *Express Mail:* 1201 Eye Street, NW., 5th Floor, Washington, DC 20005.

The Secretary of the Interior, on behalf of the other members of NISC, is actively soliciting nominations of qualified minorities, women, persons with disabilities and members of low income populations to ensure that recommendations of the ISAC take into account the needs of the diverse groups served.

Dated: June 3, 2009.

Christopher P. Dionigi,

Acting Executive Director, National Invasive Species Council.

[FR Doc. E9–13312 Filed 6–5–09; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

[Docket No. MMS–2008–OMM–0041]

MMS Information Collection Activity: 1010–0048, Geological and Geophysical (G&G) Explorations of the Outer Continental Shelf, Revision of a Collection; Submitted for Office of Management and Budget Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of extension of an information collection (1010–0048).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to the Office of Management and Budget an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under 30 CFR part 251, ''Geological and Geophysical (G&G) Explorations of the Outer Continental Shelf,'' and related documents. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements.

DATES: Submit written comments by July 8, 2009.

ADDRESSES: You may submit comments by any either of the following methods listed below.

- Either by fax (202) 395–5806 or email (*OIRA_DOCKET@omb.eop.gov*) directly to the Office of Information and Regulatory Affairs, OMB, *Attention:* Desk Officer for the Department of the Interior (1010–0048).
- Electronically: go to *http://www.regulations.gov*. Under the tab More Search Options, click Advanced Docket Search, then select Minerals Management Service from the agency drop-down menu, then click submit. In the Docket ID column, select MMS–2008–OMM–0041 to submit public comments and to view supporting and related materials available for this rulemaking. Information on using *Regulations.gov,* including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's User Tips link. The MMS will post all comments.
- Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Attention: Cheryl Blundon; 381 Elden Street, MS–4024; Herndon, Virginia 20170–4817. Please reference Information Collection 1010–0048 in your subject line and mark your message for return receipt. Include your name and return address in your message text.

FOR FURTHER INFORMATION CONTACT: Cheryl Blundon, Regulations and Standards Branch, (703) 787–1607. You may also contact Cheryl Blundon to obtain a copy, at no cost, of the regulations and the form that require the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR Part 251, Geological and Geophysical (G&G) Explorations of the Outer Continental Shelf.

Form: MMS–327, Application for Permit to Conduct Geological or Geophysical Exploration for Mineral Resources or Scientific Research in the Outer Continental Shelf.

OMB Control Number: 1010–0048.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior (Secretary) to prescribe rules and regulations to administer leasing of the OCS. Such rules and regulations will apply to all operations conducted under a lease. Operations on the OCS must preserve, protect, and develop oil and natural gas resources in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; to balance orderly energy resource development with protection of human, marine, and coastal environments; to ensure the public a fair and equitable return on the resources of the OCS; and to preserve and maintain free enterprise competition.

The OCS Lands Act (43 U.S.C. 1340) also states that ''any person authorized by the Secretary may conduct geological and geophysical explorations in the [O]uter Continental Shelf, which do not interfere with or endanger actual operations under any lease maintained or granted pursuant to this OCS Lands Act, and which are not unduly harmful to aquatic life in such area.'' The section further requires that permits to conduct such activities may only be issued if it is determined that the applicant is qualified; the activities are not polluting, hazardous, or unsafe; they do not interfere with other users of the area; and they do not disturb a site, structure, or object of historical or archaeological significance. Applicants for permits are required to submit Form MMS–327 to provide the information necessary to evaluate their qualifications. Upon approval, respondents are issued a permit.

The OCS Lands Act (43 U.S.C. 1352) further requires that certain costs be reimbursed to the parties submitting required G&G information and data. Under the OCS Lands Act, permittees are to be reimbursed for the costs of reproducing any G&G data required to be submitted. Permittees are to be reimbursed also for the reasonable cost of processing geophysical information required to be submitted when processing is in a form or manner required by the Director of the Minerals Management Service (MMS) and is not used in the normal conduct of the business of the permittee.

The Independent Offices Appropriations Act (31 U.S.C. 9701), the Omnibus Appropriations Bill (Pub. L. 104–133, 110 Stat. 1321, April 26, 1996), and the Office of Management and Budget (OMB) Circular A–25, authorize Federal agencies to recover the full cost of services that confer

special benefits. Under the Department of the Interior's (DOI) implementing policy, the MMS is required to charge the full cost for services that provide special benefits or privileges to an identifiable non-Federal recipient above and beyond those that accrue to the public at large. The G&G permits are subject to cost recovery, and MMS regulations specify the filing fee for the application.

Regulations to carry out these responsibilities are contained in 30 CFR part 251. This is a routine renewal request of the currently approved information collection (IC) aspects of these regulations.

Responses are generally on occasion or as specified in each permit and the responses are mandatory or are required to obtain or retain a benefit. No questions of a sensitive nature are asked. The MMS protects information according to the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2), and under regulations at 30 CFR 251.

The MMS uses the information to ensure there is no environmental degradation, personal harm or unsafe operations and conditions, damage to historical or archaeological sites, or interference with other uses; to analyze and evaluate preliminary or planned drilling activities; to monitor progress and activities in the OCS; to acquire G&G data and information collected under a federal permit offshore; and to determine eligibility for reimbursement from the government for certain costs. The information is necessary to determine if the applicants for permits or filers of notices meet the qualifications specified by the OCS Lands Act. The MMS uses information collected to understand the G&G characteristics of oil- and gas-bearing physiographic regions of the OCS. It aids the Secretary in obtaining a proper balance among the potentials for environmental damage, the discovery of oil and gas, and adverse impacts on affected coastal states. Information from permittees is necessary to determine the propriety and amount of reimbursement.

Form MMS–327 is also submitted to MMS under 30 CFR 251 for approval. The MMS needs this information to determine if permittees have the necessary qualifications pertinent to G&G explorations or scientific research.

Frequency: Responses are generally on occasion or as specified in each permit.

Estimated Number and Description of Respondents: Potentially 130 respondents (OCS Federal oil, gas, and sulphur permittees and notice filers).

Estimated Reporting and Recordkeeping Hour Burden: The estimated annual hour burden for this information collection is a total of 1,243 hours. The following chart details the individual components and estimated hour burdens. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

Citation 30 CFR 251	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
		Non-hour cost burden		
30 CFR 251.1 through 251.6				
251.4(a), (b); 251.5(a), (b), (d); 251.6; 251.7.	Apply for permits (Form MMS–327) to conduct G&G exploration, including deep stratigraphic tests/revisions when necessary.	3	144 applications	432
		144 applications × $2,012 = $289,728		
251.4(b); 251.5(c), (d); 251.6.	File notices to conduct scientific research activities, including notice to MMS prior to beginning and after concluding activities.	1	3 notices	3
251.6(b); 251.7(b)(5)	Notify MMS if specific actions should occur; report archaeological resources (no instances reported since 1982).	1	1 notice	1
Subtotal			148 responses	436
			$289,728 non-hour cost burden	
30 CFR 251.7 through 251.9				
251.7	Submit information on test drilling activities under a permit, including Forms MMS–123 and MMS–123S.	Burden included under 1010–0141		0
251.7(c)	Enter into agreement for group participation in test drilling, including publishing summary statement; provide MMS copy of notice/list of participants (no agreements submitted since 1989).	1	1 agreement	1
251.7(d)	Submit bond(s) on deep stratigraphic test	Burden included under 30 CFR part 256 (1010–0006)		0
251.8(a)	Request reimbursement for certain costs associated with MMS inspections (no requests in many years. OCS Lands Act requires Government reimbursement).	1	1 request	1

Citation 30 CFR 251	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
		Non-hour cost burden		
251.8(b), (c)	Submit modifications to, and status/final reports on, activities conducted under a permit.	2	55 submissions × 3 reports = 165.	330
251.9(c)	Notify MMS to relinquish a permit	½	2 notices	1
Subtotal			169 responses	333
30 CFR 251.10 through 251.13				
251.10(c)	File appeals	Exempt under 5 CFR 1320.4(a)(2), (c)		0
251.11; 251.12	Notify MMS and submit G&G data and/or information collected under a permit and/or processed by permittees or 3rd parties, including reports, logs or charts, results, analyses, descriptions, etc.	4	40 submissions	160
251.13	Request reimbursement for certain costs associated with reproducing data/information.	2	40 submissions	80
Subtotal			80 responses	240
30 CFR 251.14				
251.14(a)	Submit comments on MMS intent to disclose data and/or information to the public.	1	1 submission	1
251.14(c)(2)	Submit comments on MMS intent to disclose data and/or information to an independent contractor/agent.	1	1 submission	1
251.14(c)(4)	Contractor/agent submits written commitment not to sell, trade, license, or disclose data and/or information without MMS consent.	1	1 submission	1
251.1–251.14	General departure and alternative compliance requests not specifically covered elsewhere in part 251 regulations.	1	1 request	1
Subtotal			4 responses	4
Extension for Permit Form & Recordkeeping				
Permit form (Form MMS–327).	Request extension of permit time period	1	100 extensions	100
	Retain G&G data/information for 10 years and make available to MMS upon request.	1	130 recordkeepers	130
Subtotal			230 responses	230
Total burden			631 responses	1,243
			$289,728 non-hour cost burden	

Estimated Reporting and Recordkeeping Non-Hour Cost Burden: We have identified one paperwork non-hour cost burden associated with this collection of information. Under 251.5(a), there is an application fee of $2,012. We have not identified any other paperwork non-hour cost burden associated with this collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.*) requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *'' Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, on March 31,

2009, we published a **Federal Register** notice (74 FR 14576) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. In addition, § 251.15 provides the OMB control number for the information collection requirements imposed by the 30 CFR part 251 regulations and form. The regulation and form also inform the public that they may comment at any time on the collection of information and provide the address to which they should send comments. We have received no comments in response to these efforts.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. The OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by July 8, 2009.

Public Availability of Comments: 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.

MMS Information Collection Clearance Officer: Arlene Bajusz (202) 208–7744.

Dated: April 17, 2009.

E.P. Danenberger,

Chief, Office of Offshore Regulatory Programs.

[FR Doc. E9–13245 Filed 6–5–09; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

[Docket No. MMS–2009–OMM–0007]

MMS Information Collection Activity: 1010–0177, Global Positioning System for MODUs, Extension of a Collection; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of extension of an information collection (1010–00177).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), MMS is inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. This information collection request concerns the paperwork requirements in the regulations under 30 CFR 250, Subpart A, ''General.'' The MMS is renewing OMB approved Emergency Request 1010–0177 because information needs to be collected for a longer period than allowed in the Emergency Request. After a major weather event, like a hurricane, lessees and operators need to keep reporting new information to MMS until all MODUs are determined to be safe.

DATES: Submit written comments by August 7, 2009.

FOR FURTHER INFORMATION CONTACT: Cheryl Blundon, Regulations and Standards Branch at (703) 787–1607. You may also contact Cheryl Blundon to obtain a copy, at no cost, of the regulations and the NTL that requires the subject collection of information.

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

- *Electronically:* Go to *http://www.regulations.gov*. Under the tab More Search Options, click Advanced Docket Search, then select Minerals Management Service from the agency drop-down menu, then click submit. In the Docket ID column, select MMS–2009–OMM–0007 to submit public comments and to view supporting and related materials available for this information collection. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's User Tips link. The MMS will post all comments.
- Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; *Attention:* Cheryl Blundon; 381 Elden Street, MS–4024; Herndon, Virginia 20170–4817. Please reference Information Collection 1010–0177 in your subject line and mark your message for return receipt. Include your name and return address in your message text.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR 250, Subpart A, General, GPS (Global Positioning System) for MODUs

OMB Control Number: 1010–0177.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior (Secretary) to prescribe rules and regulations to administer leasing of the OCS. Such rules and regulations will apply to all operations conducted under a lease. Operations on the OCS must preserve, protect, and develop oil and natural gas resources in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; to balance orderly energy resource development with protection of human, marine, and coastal environments; to ensure the public a fair and equitable return on the resources of the OCS; preserve and maintain free enterprise competition; and ensure that the extent of oil and natural gas resources of the OCS is assessed at the earliest practicable time. Section 43 U.S.C. 1332(6) states that ''operations in the outer Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health.''

To carry out these responsibilities, the Minerals Management Service (MMS) issues regulations to ensure that operations in the OCS will meet statutory requirements; provide for safety and protect the environment; and result in diligent exploration, development, and production of OCS leases. In addition, we also issue Notice to Lessees (NTLs) that provide clarification, explanation, and interpretation of our regulations. These NTLs are used to convey purely informational material and to cover situations that might not be adequately addressed in our regulations.

Regulations at 30 CFR 250 implement these statutory requirements. We use the information for MMS to assess the whereabouts of any facility becoming unmoored due to extreme weather situations; as well as, to follow the path of that facility to determine if other facilities/pipelines, etc., were damaged in any way. The offshore oil and gas industry will use the information to determine the safest and quickest way to either remove the obstacles or to fix and reuse them.

We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2) and under regulations at 30 CFR 250.197, Data and information to be made available to the public or for limited inspection. No items of a sensitive nature are collected. Responses are mandatory.

Frequency: On occasion.

Estimated Number and Description of Respondents: Approximately 130 Federal OCS oil and or gas operators/lessees.

Estimated Reporting and Recordkeeping Hour Burden: The currently approved annual reporting burden for this collection is 84 hours. The following chart details the individual components and respective hour burden estimates of this ICR. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

NTL Requirement	Hour burden
	Non-Hour cost burdens
Purchase and installation of tracking/locator devices—one time purchase for each existing MODU	$5,000 per device.
Purchase and installation of tracking/locator devices—(these are for future new MODUs or repair/replacement devices due to normal wear and tear).	$5,000 per device.
Notify MMS with tracking/locator data access (one-time burden for initial submission)	15 minutes.
Notify MMS with tracking/locator data access (these are future submissions after initial purchase and notification in subsequent years).	15 minutes.
Notify Hurricane Response Team as soon as you know a rig has moved off location	10 minutes.

Estimated Reporting and Recordkeeping Non-Hour Cost Burden: We have identified two non-hour paperwork cost burdens for this collection, see the burden table.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *''. Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Agencies must also estimate the non-hour paperwork cost burdens to respondents or recordkeepers resulting from the collection of information. Therefore, if you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information, monitoring, and record storage facilities. You should not include estimates for equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

We will summarize written responses to this notice and address them in our submission for OMB approval. As a result of your comments, we will make any necessary adjustments to the burden in our submission to OMB.

Public Comment Procedures: 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.

MMS Information Collection Clearance Officer: Arlene Bajusz (202) 208–7744.

Dated: May 28, 2009.

William S. Hauser,

Acting Chief, Office of Offshore Regulatory Programs.

[FR Doc. E9–13246 Filed 6–5–09; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

[Docket No. MMS–2008–MRM–0033]

Agency Information Collection Activities: Submitted for Office of Management and Budget Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of an extension of a currently approved information collection (OMB Control Number 1010–0087).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to the Office of Management and Budget (OMB) an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under 30 CFR parts 227, 228, and 229. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements. The title of this collection is ''30 CFR Parts 227, 228, and 229, Delegated and Cooperative Activities with States and Indian Tribes.''

DATES: Submit written comments on or before *July 8, 2009.*

ADDRESSES: Submit written comments by either FAX (202) 395–5806 or e-mail (*OIRA_Docket@omb.eop.gov*) directly to the Office of Information and Regulatory Affairs, OMB, *Attention:* Desk Officer for the Department of the Interior (OMB Control Number 1010–0087).

Please submit copies of your comments to MMS by one of the following methods:

- Electronically go to *http://www.regulations.gov.* In the ''Comment or Submission'' column, enter ''MMS–2008–MRM–0033'' to view supporting

and related materials for this ICR. Click on ''Send a comment or submission'' link to submit public comments. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link. All comments submitted will be posted to the docket.

• Mail comments to Armand Southall, Regulatory Specialist, Minerals Management Service, Minerals Revenue Management, P.O. Box 25165, MS 300B2, Denver, Colorado 80225. Please reference ICR 1010–0087 in your comments.

• Hand-carry comments or use an overnight courier service. Our courier address is Building 85, Room A–614, Denver Federal Center, West 6th Ave. and Kipling St., Denver, Colorado 80225. Please reference ICR 1010–0087 in your comments.

FOR FURTHER INFORMATION CONTACT: Armand Southall, telephone (303) 231–3221, or e-mail *armand.southall@mms.gov.* You may also contact Mr. Southall to obtain copies, at no cost, of (1) the ICR and (2) the regulations that require the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR Parts 227, 228, and 229, Delegated and Cooperative Activities with States and Indian Tribes.

OMB Control Number: 1010–0087.

Bureau Form Number: None.

Abstract: The Secretary of the U.S. Department of the Interior is responsible for mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). Under the Mineral Leasing Act of 1920, Outer Continental Shelf Lands Act of 1953, Geothermal Steam Act of 1970, and Indian Mineral Development Act of 1982, the Secretary is responsible for managing the production of minerals from Federal and Indian lands and the OCS, collecting royalties and other mineral revenues from lessees who produce minerals, and distributing the funds collected in accordance with applicable laws.

The Secretary also has a trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. The MMS performs the mineral revenue management functions and assists the Secretary in carrying out the Department's trust responsibility for Indian lands.

When a company or an individual enters into a lease to explore, develop, produce, and dispose of minerals from Federal or Indian lands, that company or individual agrees to pay the lessor a share in an amount or value of production from the leased lands. The lessee is required to report various kinds of information to the lessor relative to the disposition of the leased minerals. Such information is generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling of such minerals. The information MMS collects includes data necessary to ensure that the lessee accurately values and appropriately pays all royalties and other mineral revenues due.

The Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), as amended by the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996, sections 3, 4, and 8 for Federal lands, authorizes the Secretary to develop delegated and cooperative agreements with states (sect. 205) and Indian tribes (sect. 202) to carry out certain inspection, auditing, investigation, or limited enforcement activities for oil and gas leases in their jurisdiction. The states and Indian tribes are working partners and are an integral part of the overall onshore and offshore compliance effort. The Appropriations Act of 1992 also authorizes the states and Indian tribes to perform the same functions for coal and other solid mineral leases.

Public laws pertaining to mineral revenues are located on our Web site at *http://www.mrm.mms.gov/Laws_R_D/PublicLawsAMR.htm.*

Relevant parts of the Code of Federal Regulations (CFR) include 30 CFR parts 227, 228, and 229, as described below:

Title 30 CFR Part 227—Delegation to States, provides procedures to delegate certain Federal minerals revenue management functions to states for Federal oil and gas leases. The regulation also provides only audit and investigation functions to states for Federal geothermal and solid mineral leases, and leases subject to Section 8(g) of the OCS Lands Act, within their state boundaries. To be considered for such delegation, states must submit a written proposal, and receive approval from MMS, and provide periodic accounting documentation to MMS.

Title 30 CFR Part 228—Cooperative Activities with States and Indian Tribes, provides procedures to utilize the capabilities of the Indian tribes to carry out audits and related investigations of their respective leased lands. Indian tribes must submit a written proposal to enter into a cooperative agreement to MMS, outlining the activities to be undertaken and present evidence that they can meet the standards of the Secretary for the activities to be conducted. The tribes must also submit an annual work plan and budget, as well as quarterly reimbursement vouchers.

Title 30 CFR Part 229—Delegation to States, provides procedures to utilize the capabilities of the states to carry out audits and related investigations of leased Indian lands within their respective state boundaries, by permission of the respective Indian tribal councils or individual Indian mineral owners. The state must receive the Secretary's delegation of authority and submit annual audit work plans detailing its audits and related investigations, annual budgets, and quarterly reimbursement vouchers. The state is also required to maintain records.

In summary, this collection of information is necessary in order for states and Indian tribes to conduct audits and related investigations of Federal and Indian oil, gas, coal, any other solid minerals, and geothermal royalty revenues from Federal and tribal leased lands.

The MMS protects proprietary information submitted under this collection. The MMS does not collect items of a sensitive nature. A response to engage in these programs is required to obtain the benefit of entering into a cooperative agreement with the Secretary.

Frequency: Varies based on the function performed.

Estimated Number and Description of Respondents: 11 states and 7 Indian tribes.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: 6,178 hours.

We have not included in our estimates certain requirements performed in the normal course of business and considered usual and customary. The following chart shows the estimated burden hours by CFR section and paragraph:

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS

30 CFR	Reporting and recordkeeping requirements	Hour burden	Number of annual fresponses	Annual urden hours
	Part 227—Delegation to States			
	Delegation Proposals			
227.103; 107; 109; 110(a) and (b)(1); 110(c) and (e); 111(a) and (b); 805.	What must a State's delegation proposal contain? ..... If you want MMS to delegate royalty management functions to you, then you must submit a delegation proposal to the MMS Associate Director for Minerals Revenue Management. MMS will provide you with technical assistance and information to help you prepare your delegation proposal. . . .	200	1	200
	Delegation Process			
227.110(b)(2)	(b)(2) If you want to change the terms of your delegation agreement for the renewal period, you must submit a new delegation proposal under this part.	15	11	165
	Existing Delegations			
	Compensation			
227.112(d) and (e)	What compensation will a State receive to perform delegated functions? You will receive compensation for your costs to perform each delegated function subject to the following conditions . . . (d) At a minimum, you must provide vouchers detailing your expenditures quarterly during the fiscal year. However, you may agree to provide vouchers on a monthly basis in your delegation agreement . . . (e) You must maintain adequate books and records to support your vouchers . . .[a]	4	84	336
	States' Responsibilities To Perform Delegated Functions			
227.200(a), (b), (c), and (d)	What are a State's general responsibilities if it accepts a delegation? For each delegated function you perform, you must: (a) . . . seek information or guidance from MMS regarding new, complex, or unique issues. . . . (b)(1) . . . Provide complete disclosure of financial results of activities; (2) Maintain correct and accurate records of all mineral-related transactions and accounts; (3) Maintain effective controls and accountability; (4) Maintain a system of accounts . . . (5) Maintain adequate royalty and production information . . . (c) Assist MMS in meeting the requirements of the Government Performance and Results Act (GPRA) . . . (d) Maintain all records you obtain or create under your delegated function, such as royalty reports, production reports, and other related information. . . . You must maintain such records for at least 7 years. . . .	200	11	2,200
227.200(e); 801(a); 804	(e) Provide reports to MMS about your activities under your delegated functions . . . At a minimum, you must provide periodic statistical reports to MMS summarizing the activities you carried out . . .[b]	3	44	132
227.200(f); 401(e); 601(d)	(f) Assist MMS in maintaining adequate reference, royalty, and production databases. . . .	1	250	250
227.200(g); 301(e)	(g) Develop annual work plans	60	11	660
227.200(h)	(h) Help MMS respond to requests for information from other Federal agencies, Congress, and the public . . .	8	10	80
227.400(a)(4) and (a)(6); 401(d); 501(c).	What functions may a State perform in processing production reports or royalty reports? Production reporters or royalty reporters provide production, sales, and royalty information on mineral production from leases that must be collected, analyzed, and corrected. (a) If you request delegation of either production report or royalty report processing functions, you must perform . . . (4) Timely transmitting production report or royalty report data to MMS and other affected Federal agencies . . .	1	250	250

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR	Reporting and recordkeeping requirements	Hour burden	Number of annual fresponses	Annual urden hours
	(6) Providing production data or royalty data to MMS and other affected Federal agencies. . . .			
227.400(c)	(c) You must provide MMS with a copy of any exceptions from reporting and payment requirements for marginal properties and any alternative royalty and payment requirements for unit agreements and communitization agreements you approve.	1	12	12
227.601(c)	What are a State's responsibilities if it performs automated verification? To perform automated verification of production reports or royalty reports, you must . . . (c) Maintain all documentation and logging procedures . . .	8	11	88
Subtotal Burden for 30 CFR Part 227.			695	4,373
Part 228—Cooperative Activities With States and Indian Tribes				
Subpart C—Oil And Gas, Onshore				
228.100(a) and (b); 101(c); 107(b).	Entering into an agreement (a) . . . Indian tribe may request the Department to enter into a cooperative agreement by sending a letter from . . . tribal chairman . . . to the Director of MMS. (b) The request for an agreement shall be in a format prescribed by MMS and should include at a minimum the following information: (1) Type of eligible activities to be undertaken. (2) Proposed term of the agreement. (3) Evidence that . . . Indian tribe meets, or can meet by the time the agreement is in effect . . . (4) If the State is proposing to undertake activities on Indian lands located within the State, a resolution from the appropriate tribal council indicating their agreement to delegate to the State responsibilities under the terms of the cooperative agreement for activities to be conducted on tribal or allotted land.	200	1	200
228.101(a)	Terms of agreement (a) Agreements entered into under this part shall be valid for a period of 3 years and shall be renewable . . . upon request of . . . Indian tribe. . . .	15	7	105
228.101(d)	(d) . . . Indian tribe will be given 60 days to respond to the notice of deficiencies and to provide a plan for correction of those deficiencies. . . .	80	1	80
228.103(a) and (b)	Maintenance of records (a) . . . Indian tribe entering into a cooperative agreement under this part must retain all records, reports, working papers, and any backup materials . . . (b) . . . Indian tribe shall maintain all books and records . . .	120	7	840
228.105(a)(1) and (a)(2)	Funding of cooperative agreements (a)(1) The Department may, under the terms of the cooperative agreement, reimburse . . . Indian tribe up to 100 percent of the costs of eligible activities. Eligible activities will be agreed upon annually upon the submission and approval of a work plan and funding requirement. (2) A cooperative agreement may be entered into with . . . Indian tribe, upon request, without a requirement for reimbursement of costs by the Department.	60	7	420
228.105(c)	(c) . . . Indian tribe shall submit a voucher for reimbursement of eligible costs incurred within 30 days of the end of each calendar quarter. . . . Indian tribe must provide the Department a summary of costs incurred, for which . . . Indian tribe is seeking reimbursement, with the voucher.[c]	4	36	144
Subtotal Burden for 30 CFR Part 228.			59	1,789

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR	Reporting and recordkeeping requirements	Hour burden	Number of annual fresponses	Annual urden hours
	Part 229—Delegation to States			
	Subpart C—Oil and Gas, Onshore			
	Administration of Delegations			
229.100(a)(1) and (a)(2)	Authorities and responsibilities subject to delegation (a) All or part of the following authorities and responsibilities of the Secretary under the Act may be delegated to a State authority: (1) Conduct of audits related to oil and gas royalty payments made to the MMS which are attributable to leased . . . Indian lands within the State. Delegations with respect to any Indian lands require the written permission, subject to the review of the MMS, of the affected Indian tribe or allottee. (2) Conduct of investigations related to oil and gas royalty payments made to the MMS which are attributable to . . . Indian lands within the State. Delegation with respect to any Indian lands require the written permission, subject to the review of the MMS, of the affected Indian tribe or allottee. No investigation will be initiated without the specific approval of the MMS. . . .	1	1	1
229.101(a) and (d)	Petition for delegation (a) The governor or other authorized official of any State which contains . . . Indian oil and gas leases where the Indian tribe and allottees have given the State an affirmative indication of their desire for the State to undertake certain royalty management-related activities on their lands, may petition the Secretary to assume responsibilities to conduct audits and related investigations of royalty related matters affecting . . . Indian oil and gas leases within the State . . . (d) In the event that the Secretary denies the petition, the Secretary must provide the State with the specific reasons for denial of the petition. The State will then have 60 days to either contest or correct specific deficiencies and to reapply for a delegation of authority.	1	1	1
229.102(c)	Fact-finding and hearings (c) A State petitioning for a delegation of authority shall be given the opportunity to present testimony at a public hearing.	1	1	1
229.103(c)	Duration of delegations; termination of delegations (c) A State may terminate a delegation of authority by giving a 120-day written notice of intent to terminate.	1	1	1
229.105	Evidence of Indian agreement to delegation In the case of a State seeking a delegation of authority for Indian lands . . . the State petition to the Secretary must be supported by an appropriate resolution or resolutions of tribal councils joining the State in petitioning for delegation and evidence of the agreement of individual Indian allottees whose lands would be involved in a delegation. Such evidence shall specifically speak to having the State assume delegated responsibility for specific functions related to royalty management activities.	1	1	1
229.106	Withdrawal of Indian lands from delegated authority If at any time an Indian tribe or an individual Indian allottee determines that it wishes to withdraw from the State delegation of authority in relation to its lands, it may do so by sending a petition of withdrawal to the State. . . .	1	1	1
229.109(a)	Reimbursement for costs incurred by a State under the delegation of authority. (a) The Department of the Interior (DOI) shall reimburse the State for 100 percent of the direct cost associated with the activities undertaken under the delegation of authority. The State shall maintain books and records in accordance with the standards established by the DOI and will provide the DOI, on a quarterly basis, a summary of costs incurred . . .	1	1	1
229.109(b)	(b) The State shall submit a voucher for reimbursement of costs incurred within 30 days of the end of each calendar quarter.	1	1	1

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR	Reporting and recordkeeping requirements	Hour burden	Number of annual fresponses	Annual urden hours
	Delegation Requirements			
229.120	Obtaining regulatory and policy guidance All activities performed by a State under a delegation must be in full accord with all Federal laws, rules and regulations, and Secretarial and agency determinations and orders relating to the calculation, reporting, and payment of oil and gas royalties. In those cases when guidance or interpretations are necessary, the State will direct written requests for such guidance or interpretation to the appropriate MMS officials. . . .	1	1	1
229.121(a), (b), (c), and (d)	Recordkeeping requirements (a) The State shall maintain in a safe and secure manner all records, workpapers, reports, and correspondence gained or developed as a consequence of audit or investigative activities conducted under the delegation . . . (b) The State must maintain in a confidential manner all data obtained from DOI sources or from payor or company sources under the delegation . . . (c) All records subject to the requirements of paragraph (a) must be maintained for a 6-year period measured from the end of the calendar year in which the records were created . . . Upon termination of a delegation, the State shall, within 90 days from the date of termination, assemble all records specified in subsection (a), complete all working paper files in accordance with § 229.124, and transfer such records to the MMS. (d) The State shall maintain complete cost records for the delegation in accordance with generally accepted accounting principles. . . .	1	1	1
229.122(a), (b), and (c)	Coordination of audit activities (a) Each State with a delegation of authority shall submit annually to the MMS an audit workplan specifically identifying leases, resources, companies, and payors scheduled for audit . . . A State may request changes to its workplan . . . at the end of each quarter of each fiscal year. All requested changes are subject to approval by the MMS and must be submitted in writing. (b) When a State plans to audit leases of a lessee or royalty payor for which there is an MMS or OIG resident audit team, all audit activities must be coordinated through the MMS or OIG resident supervisor. . . . (c) The State shall consult with the MMS and/or OIG regarding resolution of any coordination problems encountered during the conduct of delegation activities.	1	1	1
229.123(b)(3)(i)	Standards for audit activities (b)(3) Standards of reporting. (i) Written audit reports are to be submitted to the appropriate MMS officials at the end of each field examination.	1	1	1
229.124	Documentation standards Every audit performed by a State under a delegation of authority must meet certain documentation standards. In particular, detailed workpapers must be developed and maintained.	1	1	1
229.125(a) and (b)	Preparation and issuance of enforcement documents (a) Determinations of additional royalties due resulting from audit activities conducted under a delegation of authority must be formally communicated by the State, to the companies or other payors by an issue letter prior to any enforcement action. . . . (b) After evaluating the company or payor's response to the issue letter, the State shall draft a demand letter which will be submitted with supporting workpaper files to the MMS for appropriate enforcement action. Any substantive revisions to the demand letter will be discussed with the State prior to issuance of the letter. . . .	1	1	1
229.126(a) and (b)	Appeals (a) . . . The State regulatory authority shall, upon the request of the MMS, provide competent and knowledgeable staff for testimony, as well as any required documentation and analyses, in support of the lessor's position during the appeal process.	1	1	1

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR	Reporting and recordkeeping requirements	Hour burden	Number of annual fresponses	Annual urden hours
	(b) An affected State, upon the request of the MMS, shall provide expert witnesses from their audit staff for testimony as well as required documentation and analyses to support the Department's position during the litigation of court cases arising from denied appeals. . . .			
229.127	Reports from States	1	1	1
	The State, acting under the authority of the Secretarial delegation, shall submit quarterly reports which will summarize activities carried out by the State during the preceding quarter of the year under the provisions of the delegation. . . .			
Subtotal Burden for 30 CFR Part 229.			16	16
TOTAL BURDEN			770	6,178

[a] NOTE: 5 states × 12 monthly vouchers = 60 and 6 states × 4 quarterly vouchers = 24.
[b] NOTE: 4 quarterly reports × 11 states = 44.
[c] NOTE: 1 tribe × 12 monthly vouchers = 12 and 6 tribes × 4 quarterly vouchers = 24.

Estimated Annual Reporting and Recordkeeping "Non-hour" Cost Burden: We have identified no "non-hour cost" burden associated with the collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501 *et seq.*) provides that 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.

Comments: Section 3506(c)(2)(A) of the PRA requires each agency to "* * * provide 60-day notice in the **Federal Register** * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *." Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, we published a notice in the **Federal Register** on October 27, 2008 (73 FR 63723), announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. We received no comments in response to the notice.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. The OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by July 8, 2009.

Public Comment Policy: We will post all comments in response to this notice on our Web site at *http://www.mrm.mms.gov/Laws_R_D/InfoColl/InfoColCom.htm.* We also will post all comments including names and addresses of respondents, at *http://www.regulations.gov.* Before including your address, phone number, e-mail address, or other personal identifying information in your comment, be advised 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 from public review your personal identifying information, we cannot guarantee that we will be able to do so.

MMS Information Collection Clearance Officer: Arlene Bajusz (202) 208–7744.

Dated: April 23, 2009.

Gregory J. Gould,

Associate Director for Minerals Revenue Management.

[FR Doc. E9–13247 Filed 6–5–09; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–R–2009–N0081; 40136–1265–0000–S3]

Chassahowitzka National Wildlife Refuge, Citrus and Hernando Counties, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare a comprehensive conservation plan and environmental assessment; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, intend to prepare a comprehensive conservation plan (CCP) and associated National Environmental Policy Act (NEPA) documents for Chassahowitzka National Wildlife Refuge (NWR). We provide this notice in compliance with our CCP policy to advise other Federal and State agencies, Tribes, and the public of our intentions, and to obtain suggestions and information on the scope of issues to consider in the planning process.

DATES: To ensure consideration, we must receive your written comments by July 8, 2009. Special mailings, newspaper articles, and other media announcements will be used to inform the public and State and local government agencies of the opportunities for input throughout the planning process. A public scoping meeting will be held early in the CCP development process. The date, time, and place for the meeting will be announced in the local media.

ADDRESSES: Send comments, questions, and requests for information to: Ms.

Mary Morris, Natural Resource Planner, Chassahowitzka NWR, 1502 Southeast Kings Bay Drive, Crystal River, FL 34429.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Morris, Natural Resource Planner; *telephone:* 850/567–6202; *e-mail: ChassCCP@fws.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we initiate our process for developing a CCP for Chassahowitzka NWR in Citrus and Hernando Counties, Florida. This notice complies with our CCP policy to: (1) Advise other Federal and State agencies, Tribes, and the public of our intention to conduct detailed planning on this refuge; and (2) obtain suggestions and information on the scope of issues to consider in the environmental document and during development of the CCP.

Background

The CCP Process

The National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd-668ee) (Improvement Act), which amended the National Wildlife Refuge System Administration Act of 1966, requires us to develop a CCP for each refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year strategy for achieving refuge purposes and contributing to the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction for conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Improvement Act.

Each unit of the National Wildlife Refuge System was established for specific purposes. We use these purposes as the foundation for developing and prioritizing the management goals and objectives for each refuge within the National Wildlife Refuge System mission, and to determine how the public can use each refuge. The planning process is a way for us and the public to evaluate management goals and objectives for the best possible conservation approach to this important wildlife habitat, while providing for wildlife-dependent recreation opportunities that are compatible with the refuge's establishing purposes and the mission of the National Wildlife Refuge System.

Our CCP process provides participation opportunities for Tribal, State, and local governments; agencies; organizations; and the public. At this time we encourage input in the form of issues, concerns, ideas, and suggestions for the future management of Chassahowitzka NWR.

We will conduct the environmental review of this project and develop an environmental assessment in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*); NEPA regulations (40 CFR parts 1500–1508); other appropriate Federal laws and regulations; and our policies and procedures for compliance with those laws and regulations.

Located in the southwestern corner of Citrus County and the northwestern corner of Hernando County, approximately 65 miles north of Tampa, the 30,843-acre Chassahowitzka NWR was established by authority of the Migratory Bird Conservation Act on June 15, 1943, as ''an inviolate sanctuary'' for wintering waterfowl and other migratory birds. In 1976, we designated 16,893 acres in Citrus County and 6,736 acres in Hernando County as ''Wilderness.'' The refuge's diverse ecosystem, including prime estuarine habitat, is home for an incredible variety and abundance of flora and fauna. The marshlands, swamplands, shallow bays, and tidal streams provide both the quantity and quality of aquatic plant and animal life required to support thousands of wintering waterfowl, marsh and waterbirds, shorebirds, fishes, and a variety of animal species that depend on a marine environment. Additionally, the refuge includes 2,560 acres of hardwood swamplands and 250 acres of upland forest that form its eastern boundary. Notable imperiled species include Florida manatees, whooping cranes, Gulf sturgeon, and smalltooth sawfish. The endangered whooping crane was introduced to the refuge's marsh habitats. A highly visible partnership program has been in place for several years.

Public Availability and Comments

Before including your address, phone number, e-mail 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.

Authority: This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57.

Dated: May 5, 2009.

Cynthia K. Dohner,

Acting Regional Director.

[FR Doc. E9–13291 Filed 6–5–09; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–R–2009–N0074; 40136–1265–0000–S3]

Bayou Teche National Wildlife Refuge, St. Mary Parish, LA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability: draft comprehensive conservation plan and environmental assessment; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft comprehensive conservation plan and environmental assessment (Draft CCP/EA) for Bayou Teche National Wildlife Refuge (NWR) for public review and comment. In this Draft CCP/EA, we describe the alternative we propose to use to manage this refuge for the 15 years following approval of the final CCP.

DATES: To ensure consideration, we must receive your written comments by July 8, 2009.

ADDRESSES: Send comments, questions, and requests for information to: Mr. Paul Yakupzack, Refuge Manager, Bayou Teche NWR, 3599 Bayou Black Drive, Houma, LA 70360. The Draft CCP/EA is available on compact disk or in hard copy. The Draft CCP/EA is also available at the Service's Internet site: *http://southeast.fws.gov/planning/.*

FOR FURTHER INFORMATION CONTACT: Mr. Paul Yakupzack; *telephone:* 985/853–1078; *fax:* 985/853–1079; *e-mail: paul_yakupzack@fws.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we continue the CCP process for Bayou Teche NWR. We started this process through a notice in the **Federal Register** on March 19, 2007 (72 FR 12811).

Background

The National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd–668ee) (Improvement Act), which amended the National Wildlife Refuge System Administration Act of 1966, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year strategy for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Improvement Act.

Bayou Teche NWR is located near the town of Franklin in St. Mary Parish, Louisiana. The refuge contains 9,028 acres and is composed of wet bottomland hardwood forests laced with bayous and canals. The refuge was established on lands important to the coastal subpopulation of the Louisiana black bear. The refuge consists of six separate units, ranging in size from 3,724 acres to 80 acres. Bayou Teche NWR is one of eight refuges within the Southeast Louisiana NWR Complex, which is headquartered in Lacombe, Louisiana.

CCP Alternatives, Including Our Proposed Alternative

We developed three alternatives for managing the refuge and chose Alternative B as the proposed alternative. A full description is in the Draft CCP/EA. We summarize each alternative below.

Alternative A—No Action Alternative

Under this alternative, no new actions would be taken to improve or enhance the refuge's current habitat, wildlife, and public use management programs. Species of Federal responsibility, such as threatened and endangered species and migratory birds, would continue to be monitored at present levels. Additional species monitoring would occur through the use of volunteers as they become available. Current programs of marsh management would be maintained, with no improvements or adaptations. No progressive wetland restoration projects would be implemented. All public use programs of hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation would continue at present levels and with current facilities.

Acquisition of lands into the refuge would occur when funding is appropriated and willing sellers offer land that is quality waterfowl or Louisiana black bear habitat. Staff would consist of a refuge manager and a wildlife biologist supporting both Bayou Teche NWR and Mandalay NWR; a part-time law enforcement officer supporting Bayou Teche NWR; and supplementary support from the remainder of the Southeast Louisiana NWR Complex staff when needed. The refuge headquarters would serve as an administrative office, with no enhancement of the grounds for public use.

Alternative B—Resource Focused Management (Proposed Alternative)

Alternative B would emphasize management of the natural resources of Bayou Teche NWR based on maintaining and improving Louisiana black bear and wetland habitats, monitoring targeted flora and fauna representative of the Lower Atchafalaya River Basin, and providing quality wildlife-dependent public use activities. All species occurring on the refuge would be considered and certain targeted species would be managed and monitored, in addition to species of Federal responsibility. These species would be chosen based on the criteria that they would be indicators of the health of important habitat or species of concern.

Wetland loss would be documented and, whenever possible, the lost wetlands would be restored. Public use programs would be improved by offering more facilities and wildlife observation areas. Public use facilities would undergo annual reviews for maintenance needs and safety concerns. Overall public use would be monitored to determine if any uses would negatively impact refuge resources. Education programs would be reviewed and improved to complement current refuge management and staffing. Archaeological resources would be surveyed.

Land acquisition within the approved acquisition boundary would be based on importance of the habitat for target management species. The refuge headquarters would house a small administrative office. We would offer interpretation of refuge wildlife and habitats, as well as demonstrate habitat improvements for individual landowners. The main interpretive facilities would be housed at the Southeast Louisiana NWR Complex Headquarters in Lacombe, Louisiana.

In general, under Alternative B, management decisions and actions would support wildlife species and habitats occurring on the refuge based on well-planned strategies and sound scientific judgment. Quality wildlife-dependent recreational uses and environmental education and interpretation programs would be offered to support and explain the natural resources of the refuge.

Alternative C—Maximized Public Use

Alternative C would emphasize the management of natural resources of Bayou Teche NWR for maximized public use activities. The majority of staff time and efforts would support hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation. Federal trust species and archaeological resources would be monitored as mandated.

All refuge programs for conservation of wildlife and habitats, such as monitoring, surveying, and managing marsh, would support species and resources of importance for public use. More emphasis would be placed on interpreting and demonstrating these programs. Access, through means such as trails for walking and dredged areas for boat access, would be maximized, and we would provide public use facilities throughout the refuge.

Land acquisition within the approved acquisition boundary would be based on importance of the habitat for public use. The refuge headquarters at Mandalay NWR would provide a small administrative office and a visitor center, which would be developed for public use activities.

In general, Alternative C would focus on expanding public use activities to the fullest extent possible and conducting only mandated resource protection.

Next Step

After the comment period ends, we will analyze the comments and address them.

Public Availability of Comments

Before including your address, phone number, e-mail 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.

Authority

This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57.

Dated: May 9, 2009.

Cynthia K. Dohner,

Acting Regional Director.

[FR Doc. E9–13329 Filed 6–5–09; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Notice of Termination of the Environmental Impact Statement for the Jean Lafitte National Historical Park and Preserve, Chalmette Battlefield, and National Cemetery General Management Plan Amendment

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of Termination of the Environmental Impact Statement for the Jean Lafitte National Historical Park, and Preserve, Chalmette Battlefield, and National Cemetery General Management Plan Amendment.

SUMMARY: The National Park Service (NPS) is terminating the Environmental Impact Statement (EIS) for the Jean Lafitte National Historical Park and Preserve, Chalmette Battlefield, and National Cemetery General Management Plan Amendment (GMPA). A Notice of Intent to prepare this EIS was published in the **Federal Register** on May 2, 2003. After public scoping and a preliminary analysis of impacts related to the GMPA alternatives, the NPS determined that the impacts of the alternatives considered would be at or below the minor/negligible level. Consequently, the EIS is not necessary and NPS decided to terminate the EIS. The NPS intends to continue the GMPA process by completing an Environmental Assessment.

FOR FURTHER INFORMATION CONTACT: National Park Service, Jean Lafitte National Historical Park and Preserve, 419 Decatur Street, New Orleans, Louisiana 70130–1035, *telephone:* 504–589–3882, *e-mail: JELA_Superintendent@nps.gov.*

The authority for publishing this notice is 42 U.S.C. 4332(2)(C).

The responsible official for this EIS is David Vela, Regional Director, Southeast Region, National Park Service, 100 Alabama Street, SW., 1924 Building, Atlanta, Georgia 30303.

Dated: May 7, 2009.

Art Frederick,

Acting Regional Director, Southeast Region.

[FR Doc. E9–13325 Filed 6–5–09; 8:45 am]

BILLING CODE 4310–VE–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CACA 49539, CACA 49537, LLCAD08000, L51030000]

Notice of Intent To Prepare an Environmental Impact Statement/Staff Assessment and Land Use Plan Amendment for the SES Solar One Project, San Bernardino County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the California Environmental Quality Act (CEQA), the Department of the Interior, Bureau of Land Management (BLM), together with the California Energy Commission, (hereinafter jointly referred to as the Agencies) intend to prepare an Environmental Impact Statement/Staff Assessment (EIS/SA), and a Proposed Land Use Plan Amendment for the Stirling Energy Systems (SES) Solar One Project (Project), a Stirling engine systems solar dish project in San Bernardino County, California. SES is seeking approval to construct and operate an electrical generating facility with a nominal capacity of 850 megawatts (MW), using concentrated solar thermal power. Approximately 8,230 acres of BLM administered public land are needed to develop the Project. SES has submitted an application to the BLM requesting a right-of-way (ROW) to construct the Project and related facilities. Pursuant to BLM's California Desert Conservation Area (CDCA) Plan (1980, as amended), sites associated with power generation or transmission not identified in the CDCA Plan will be considered through the plan amendment process.

Under Federal law, BLM is responsible for processing requests for rights-of-way to authorize solar projects and associated transmission lines and other appurtenant facilities on the land it manages. BLM must comply with the requirements of NEPA to ensure that environmental impacts associated with construction, operation, and decommissioning will be identified, analyzed and considered in the application process. This will be accomplished through preparation of Draft and Final Environmental Impact Statements (EIS) in coordination with the Energy Commission.

Under California law, the Energy Commission is responsible for reviewing the Application for Certification (AFC) filed for thermal power plants over 50 MW, and also has the role of lead agency for the environmental review of such projects under the CEQA (Pub. Res. Code, sections 21000 *et seq.,* 25500 *et seq.*) The Energy Commission conducts this review in accordance with the administrative adjudication provisions of California's Administrative Procedure Act (Government Code section 11400 *et seq.*) and its own regulations governing site certification proceedings (Cal. Code Regs., tit. 20, section 1701 *et seq.*), which have been deemed CEQA equivalent by the Secretary of Resources. SES Solar One, LLC, has submitted an AFC to the Energy Commission. The AFC facilitates analysis and review by staff prior to an Energy Commission decision on the proposed project.

DATES: Publication of this notice initiates a public scoping period of at least 30 days. During the formal public scoping period, the Agencies will solicit public comments on issues, concerns, potential impacts, alternatives, and mitigation measures that should be considered in the analysis of the proposed action. In addition, the Agencies expect to hold one BLM public scoping meeting/Energy Commission information hearing during the formal scoping period to encourage public input. The public scoping meeting will be held in Barstow, California on June 22, 2009 with further details to be announced through the local news media, newspapers, mailings, the BLM Web page [*http://www.ca.blm.gov/barstow*] and the Energy Commission Web page [*http://www.energy.ca.gov/sitingcases/solarone/*] at least 15 days prior to the event. While you may have the opportunity to make oral comments at the June 22nd BLM public scoping meeting, written comments are strongly encouraged to be submitted. In order to be included in the Draft EIS/Preliminary Staff Assessment (DEIS/PSA), all comments must be received prior to the close of the formal scoping period which will be July 7, 2009. Additional opportunities for public participation and formal comment occur when the DEIS/PSA is issued. BLM will also utilize and coordinate the NEPA commenting process to satisfy the public involvement process for Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C.

470f) as provided for in 36 CFR 800.2(d)(3).

ADDRESSES:

• California Energy Commission: Christopher Meyer, Project Manager, Siting, Transmission and Environmental Protection Division, California Energy Commission, 1516 Ninth Street, MS–15, Sacramento, CA 95814 [*cmeyer@energy.state.ca.us*].

• Bureau of Land Management: Jim Stobaugh, P.O. Box 12000, Reno, NV 89520 or by phone, (775) 861–6478, or email [*Jim_Stobaugh@blm.gov*].

FOR FURTHER INFORMATION CONTACT:

Jim Stobaugh, BLM project manager, at (775) 861–6478. See also **ADDRESSES**, above.

Christopher Meyer, Energy Commission project manager, at (916) 653–1639. See also **ADDRESSES**.

Information on participating in the Commission's review of the project may be obtained through the Commission's Public Adviser's Office, at (916) 654–4489 or toll free in California, (800) 822–6228, or by email: [*publicadviser@energy.state.ca.us*]

News media inquiries should be directed to the Commission's media office at (916) 654–4989, or via email at [*mediaoffice@energy.state.ca.us*].

Status of the proposed project, copies of notices, an electronic version of the AFC, and other relevant documents are also available on the Commission's Internet Web site at [*http://www.energy.ca.gov/sitingcases/solarone*]. You can also subscribe to receive email notification of all notices at [*http://www.energy.ca.gov/listservers*].

SUPPLEMENTARY INFORMATION: Stirling Energy Systems (SES) formed limited liability corporations (LLC) for three applications to develop solar energy facilities in three adjacent areas along Interstate 40 between Newberry Springs and Hector, CA. Two of these adjacent applicants, SES Solar Three, LLC and SES Solar Six, LLC, have applied to BLM for rights-of-way (ROW) on public lands to construct a concentrated solar thermal power plant facility (Phase 1 and Phase 2 of the proposed Solar One project). The eastern portion of the proposed Solar One Project Area was subsequently withdrawn from application because it was located within the Pisgah Area of Critical Environmental Concern. The reduction of this land from the Solar One project area and the recognition of the value of development of the project adjacent to existing transmission lines first, resulted in SES combining the Solar Three LLC and Solar Six LLC application areas under one project area to meet its overall goal of an 850 MW solar facility at this site. For purposes of the filings, Solar Three, LLC and Solar Six, LLC are considered the ''Applicant.'' The name of the proposed project is the Solar One Project.

The proposed Solar One Project would be constructed on an approximate 8,230-acre site located in San Bernardino County, California. The project site is approximately 37 miles east of Barstow, 17 miles east of Newberry Springs, 57 miles northeast of Victorville, and approximately 115 miles east of Los Angeles. The proposed SES Solar One Project would be a nominal 850-megawatt (MW) Stirling engine project, with construction planned to begin in late 2010 if the project is approved by the Energy Commission and rights-of way grants are issued by the BLM. Although construction would take approximately 40 months to complete, renewable power would be available to the grid as each 60-unit group is completed. The primary equipment for the generating facility would include the 25-kilowatt Stirling solar dish systems (referred to as SunCatchers), their associated equipment and systems, and their support infrastructure. Each SunCatcher consists of a solar receiver heat exchanger and a closed-cycle, high-efficiency Solar Stirling Engine specifically designed to convert solar power to rotary power then driving an electrical generator to produce grid-quality electricity.

The facility would be built in two phases and would be expected to operate for approximately 20 years based on the Purchase Power Agreement signed by SES with Southern California Edison (SCE). The first phase would consist of up to 20,000 SunCatchers configured in 334 units, with 1.5 MW solar groups of 60 SunCatchers per unit and have a net nominal generating capacity of 500 MW on 5,838 acres of Federal lands. The second phase would consist of approximately 14,000 SunCatchers configured in 233 units with a net generating capacity of 350 MW on 2,392 acres of Federal lands. Each SunCatcher system consists of an approximate 38-foot high by 40-foot wide solar concentrator dish that supports an array of curved glass mirror facets designed to automatically track the sun and focus solar energy onto a power conversion unit which generates electricity.

Related structures for the project would include the construction of a new 230-kV substation located approximately in the center of the project site. This new substation would be connected to the existing SCE Pisgah Substation adjacent to the project site via approximately two miles of single-circuit, 230-kV transmission line. Other than this interconnection transmission line that will be constructed by SES, the proposed project would require SCE to expand and upgrade the existing 230-kV SCE Pisgah Substation to support the increase in voltage to 500-kV, loop the Eldorado-Lugo 500-kV line into the SCE Pisgah Substation and demolish 65 miles of the existing Lugo-Pisgah No.2 230-kV transmission and replace it with towers and conductor. In addition, modifications within the SCE Eldorado and Lugo substations will be required.

SCE proposes to construct the new Lugo-Pisgah No.2 500-kV transmission line for 57 of the 67 miles needed for the upgrade from the existing Pisgah substation to the Victorville substation within the existing ROW of the 230-kV transmission line that would be replaced and upgraded.

The last 10 miles of this new Lugo-Pisgah No. 2 500-kV line to the Victorville substation, located south of Victorville would be constructed within a new ROW area.

The EIS/SA will analyze the site-specific impacts on air quality, biological resources, cultural resources, water resources, geological resources and hazards, hazardous materials handling, land use, noise, paleontological resources, public health, socioeconomics, soils, traffic and transportation, visual resources, waste management and worker safety and fire protection, as well as facility design engineering, efficiency, reliability, transmission system engineering and transmission line safety and nuisance. The BLM CDCA Plan of 1980, as amended, while recognizing the potential compatibility of solar generation facilities on public lands, requires that all sites associated with power generation or transmission not identified in the 1980 Plan will be considered through the plan amendment process.

The following planning criteria will be utilized during the plan amendment process:

• The plan amendment process will be completed in compliance with FLPMA, NEPA, and all other relevant Federal laws, Executive orders, and management policies of the BLM;

• The plan amendment process will include an EIS that will comply with NEPA standards;

• Where existing planning decisions are determined to be valid, those decisions will remain unchanged and will be incorporated into any new plan amendment;

- The plan amendment will recognize valid existing rights;
- Native American Tribal consultations will be conducted in accordance with policy and Tribal concerns will be given due consideration. The plan amendment process will include the consideration of any impacts on Indian trust assets;
- Consultation with the SHPO will be conducted throughout the plan amendment process; and
- Consultation with USFWS will be conducted throughout the plan amendment process.

If the ROW and proposed land use plan amendment are approved by BLM, the concentrated solar thermal power plant facility on public lands would be authorized in accordance with Title V of the Federal Land Policy and Management Act of 1976 and the BLM's ROW Regulations at 43 CFR part 2800. A certificate designating approval of the Energy Commission must be obtained by SES before it may construct a power plant and/or electric transmission line and related facilities.

You may submit comments on issues and planning criteria in writing at the public scoping meeting, or you may submit them via e-mail (see **ADDRESSES** section above). To be most helpful, you should submit comments within 30 days after the public scoping meeting. 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.

Robert Doyel,

Acting Deputy State Director for Natural Resources, California State Office.

[FR Doc. E9–13320 Filed 6–5–09; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before May 23, 2009. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St., NW., 8th floor, Washington DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by June 23, 2009.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

CALIFORNIA

Ventura County

First Baptist Church of Ventura, 101 S. Laurel St., Ventura, 09000466

CONNECTICUT

Fairfield County

Restmore, 375 Warner Hill Rd., Fairfield, 09000467

Hartford County

Case Brothers Historic District, 680–728 Spring St., 40 Glen Rd., and rough boundaries of Case Mountain Recreation Area and Manchester Land, Manchester, 09000468

MASSACHUSETTS

Berkshire County

West Stockbridge Town Hall, 9 Main St., West Stockbridge, 09000469

Hampshire County

Gate Cemetery, Ireland St., Chesterfield, 09000470

Ireland Street Cemetery, Ireland St., Chesterfield, 09000471

MICHIGAN

Berrien County

Zinc Collar Pad Company Building, 304 S. Oak St., Buchanan, 09000472

Houghton County

Chassell School Complex, 42373, 42365 N. Hancock St., Chassell, 09000473

Jackson County

Hebrew Cemetery, 420 N.W. Ave., Jackson, 09000474

Otsego County

Johannesburg Manufacturing Company Store, 10816 M–32 E., Johannesburg, 09000475

St. Joseph County

Clapp, Leverett A. and Amanda (Hampson), House, 324 W. Main St., Centreville, 09000476

MISSOURI

Cole County

Munichburg Commercial Historic District, (Southside Munichburg, Missouri MPS) 114–130 (even only) E. Dunklin St., 610, 620 Madison St., 704 Madison St., Jefferson City, 09000477

NEW YORK

Cayuga County

Hutchinson Homestead, 6080 Lake St., Cayuga, 09000478

Columbia County

Rockefeller, Simeon, House, 524 Columbia Co. Rte. 8, Germantown, 09000479

St. John's Lutheran Church, 1273 Co. Rte. 7, Ancram, 09000480

Washington County

Stoops Hotel, 2839 NY 29, Battenville, 09000481

NORTH DAKOTA

Grand Forks County

Grand Forks Near Southside Historic District (Second Boundary Increase), 1019 Reeves Dr., Grand Forks, 09000482

SOUTH CAROLINA

Chester County

Lando School, Schoolhouse Rd., Lando, 09000485

Greenville County

Campbell's Covered Bridge, 123 Campbell Covered Bridge Rd., Gowensville, 09000483

Hampton County

Lawton, John, House, 118 3rd. St., Estill, 09000484

TEXAS

Cameron County

Hicks-Gregg House, 1249 W. Washington St., Brownsville, 09000486

WISCONSIN

Columbia County

Griswold, George, House, 146 S. Dickason Blvd., Columbus, 09000487

Ingalsbe, Adolphus and Sarah, House, 546 Park Ave., Columbus, 09000488

Request for REMOVAL has been made for the following resources:

WISCONSIN

Milwaukee County

Coast Guard Station, Old, 1600 N. Lincoln Memorial Dr., Milwaukee, 89001047

St. Croix County

Williams, T.E., Block, 321 2nd St., Hudson, 84000070

[FR Doc. E9–13249 Filed 6–5–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Weekly Listing of Historic Properties

Pursuant to (36 CFR 60.13(b,c)) and (36 CFR 63.5), this notice, through

publication of the information included herein, is to apprise the public as well as governmental agencies, associations and all other organizations and individuals interested in historic preservation, of the properties added to, or determined eligible for listing in, the National Register of Historic Places from April 20, to April 24, 2009.

For further information, please contact Edson Beall via: United States Postal Service mail, at the National Register of Historic Places, 2280, National Park Service, 1849 C St. NW., Washington, DC 20240; in person (by appointment), 1201 Eye St. NW., 8th floor, Washington, DC 20005; by fax, 202–371–2229; by phone, 202–354–2255; or by e-mail, *Edson_Beall@nps.gov.*

Dated: June 2, 2009.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

KEY: State, County, Property Name, Address/Boundary, City, Vicinity, Reference Number, Action, Date, Multiple Name

California, San Francisco County, Veterans Affairs Medical Center—San Francisco, California, 4150 Clement St., San Francisco, 05001112, Listed, 4/20/09

Colorado, Montrose County, Denver & Rio Grande Western Railroad Caboose No. 0577, Approximately 1 mi. N. by NE of US 50 at Cimarron, adjacent to Morrow Point Dam Rd., Curecanti National Recreation Ctr., Cimarron, 09000222, Listed, 4/21/09

Colorado, Montrose County, Denver & Rio Grande Western Railroad Locomotive No. 278 and Tender, Approximately 1 mi. N. by NE. of US 50 at Cimarron, near Marrow Point Dam Rd., Curecanti National Recreation Center, Cimarron, 09000223, Listed, 4/21/09

Indiana, Hancock County, Lockheed PV–2 Harpoon No. 37396, 3867 N. Aviation Way, Mount Comfort, 09000234, Listed, 4/23/09

Kansas, Crawford County, Crawford County Courthouse, 111 E. Forest, Courthouse Square, Girard, 09000225, Listed, 4/22/09 (County Courthouses of Kansas MPS)

Kansas, Crawford County, St. John's Episcopal Church, SE corner of Buffalo and Summit, Girard, 09000226, Listed, 4/22/09

Kansas, Elk County, Elk County Courthouse, 127 N. Pine, Howard, 09000227, Listed, 4/22/09 (County Courthouses of Kansas MPS)

Kansas, McPherson County, Berquist & Nelson Drugstore Building, 105 N. Main St., Lindsborg, 09000228, Listed, 4/22/09

Kansas, McPherson County, Clareen—Peterson Restaurant Building, 113 N. Main St., Lindsborg, 09000229, Listed, 4/22/09

Kansas, McPherson County, Holmberg and Johnson Blacksmith Shop, 122 N. Main St., Lindsborg, 09000230, Listed, 4/22/09

Kansas, Pratt County, Parachute Building, 40131 Barker Ave., Pratt, 09000231, Listed, 4/22/09

Kansas, Sedgwick County, Ablah, Frank J. and Harvey J., House, 102–104 N. Pinecrest Ave., Wichita, 09000276, Listed, 4/21/09 (Residential Resources of Wichita, Sedgwick County, Kansas 1870–1957)

Kansas, Sedgwick County, North Topeka Avenue Apartments Historic District, 625, 630, 631, and 632 N. Topeka Ave., Wichita, 09000277, Listed, 4/21/09 (Residential Resources of Wichita, Sedgwick County, Kansas 1870–1957)

Massachusetts, Berkshire County, H.W. Clark Biscuit Company, 179–191 Ashland St., North Adams, 09000235, Listed, 4/22/09 (North Adams MRA)

Massachusetts, Bristol County, Codding Farm, The, 217 High St., North Attleborough, 09000236, Listed, 4/22/09

Montana, Meagher County, Parberry Block East, 18–20 E. Main St., White Sulphur Springs, 09000237, Listed, 4/22/09

New Hampshire, Hillsborough County, Wilton Town Hall, 42 Main St., Wilton, 09000254, Listed, 4/20/09

New York, Hamilton County, Lake Pleasant Town Hall, 2885 NY 8, Speculator, 09000238, Listed, 4/23/09

North Dakota, Grand Forks County, Grand Forks County Fairgrounds WPA Structures, 2300 Gateway Dr., Grand Forks, 08001262, Listed, 4/21/09

Oklahoma, Garfield County, Enid Terminal Grain Elevators Historic District, Near E. Willow Rd., N. 16th St., N. 10th St. and N. Van Buren St., Enid, 09000239, Listed, 4/20/09 (Grain Storage and Processing Facilities in Western Oklahoma MPS)

Oregon, Deschutes County, Elk Lake Guard Station, Deschutes National Forest, Bend/Fort Rock Rd. 4625.100, Bend vicinity, 09000240, Listed, 4/23/09

Utah, Salt Lake County, Forest Dale Historic District, Roughly bounded by 700 E., I–80, Commonwealth Ave., and 900 E., Salt Lake City, 09000241, Listed, 4/23/09

Virginia, Madison County, Hoffman Round Barn, 4864 Wolftown-Hood Rd., Wolftown vicinity, 09000242, Listed, 4/20/09

West Virginia, Cabell County, Freeman Estate, 1805 McCoy Rd., Huntington, 09000243, Listed, 4/23/09

West Virginia, Hancock County, Wells, William E., House, 372 Virginia Terr., Newell, 09000244, Listed, 4/23/09

West Virginia, Morgan County, Town of Bath Historic District, Roughly Washington and Fairfax Sts. and adjacent blocks, Berkeley Springs, 09000245, Listed, 4/23/09

Wyoming, Weston County, Newcastle Commercial District, Bounded by Burlington Northern Santa-Fe Railroad tracks and West Main St., Newcastle, 08001061, Listed, 4/21/09

[FR Doc. E9–13248 Filed 6–5–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVC0200.L58740000.EU059F; N–82711; 9–08807; TAS14X5260]

Direct Sale of Public Land Near the Fernley Airport in Lyon County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The Bureau of Land Management (BLM) proposes to offer one parcel of approximately 320 acres of public land in northern Lyon County by non-competitive direct sale at the appraised fair market value to Toybox Enterprises, Inc. Toybox holds a public airport lease within the described area. The sale will be subject to the applicable provisions of sections 203 and 209 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. 1713 and 1719, respectively, and BLM land sale and mineral conveyance regulations at 43 CFR 2710 and 2720.

DATES: Interested parties may submit written comments regarding the proposed sale of public lands until July 23, 2009. The sale will not be before August 7, 2009.

ADDRESSES: Mail written comments to BLM Field Manager, Sierra Front Field Office, Carson City District Office, 5665 Morgan Mill Road, Carson City, NV 89701.

FOR FURTHER INFORMATION CONTACT: J. Fred Slagle at 775–885–6115.

SUPPLEMENTARY INFORMATION: The sale parcel is approximately 3 miles south from downtown Fernley, Nevada and is legally described as:

Mount Diablo Meridian

T. 20 N., R. 24 E.,

Sec. 36, W½.

The area described contains 320 acres, more or less, in Lyon County.

An appraisal report prepared by a State certified appraiser which established the fair market value (FMV) of the parcel at $450,000 has been approved by an authorized officer. Public land cannot be sold for less than its FMV.

The public land is not required for any Federal purpose. This public sale is in conformance with the 2001 BLM Carson City Consolidated Resource Management Plan, approved May 9, 2001. The parcel meets the disposal qualification of section 205 of the Federal Land Transaction Facilitation Act of July 25, 2000 (FLTFA) (43 U.S.C. 2304). The proceeds from the sale of the land will be deposited into the Federal

Land Disposal Account for Nevada pursuant to FLTFA.

The land meets the criteria for sale under 43 CFR 2710.0–3(a)(3) where the sale of the parcel, because of its location or other characteristics, is difficult and uneconomic to manage as part of the public lands and is not suitable for management by another Federal department or agency. The land is intermingled with private land that makes it difficult to manage for any Federal purpose. This land contains no other known public values. The subject parcel has not been identified for transfer to the State or any other local government or nonprofit organization. The authorized officer has determined that a competitive sale is not appropriate and the public interest would be best served by a direct sale because the existing business could suffer a substantial economic loss if the tract were purchased by other than the existing user as provided in 43 CFR 2711.3–3(a)(3). The parcel will be offered through direct sale procedures pursuant to 43 CFR 2711.3–3.

Terms and Conditions: A mineral potential evaluation was completed for public land within the sale area and no known mineral values were identified. All mineral rights will be conveyed and no minerals will be reserved. Agreement to purchase the land will constitute an application for conveyance of the mineral estate in accordance with section 209 of FLPMA. The designated buyer must include with their purchase payment a nonrefundable $50 filing fee for the conveyance of the mineral estate. Payment must be submitted in the form of a certified check, postal money order, bank draft, or cashier's check made payable in U.S. dollars to the ''Department of the Interior—Bureau of Land Management.''

The following numbered terms and conditions will appear in the conveyance document for this parcel:

A right-of-way is reserved for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945);

The parcel is subject to:

1. Valid existing rights;

2. Right-of-Way CC–020699 for highway purposes to the State of Nevada Department of Transportation, its successors or assigns, pursuant to the Act of November 9, 1921 (42 Stat. 216);

3. Right-of-Way N–62492 for utility (excepting oil or natural gas pipelines) purposes granted to Sheri Hill, her successors or assigns, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761);

4. Right-of-Way N–73706 for communication purposes granted to Nevada Bell, its successors or assigns, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761);

5. Right-of-Way N–74474 for test hole/monitoring well purposes granted to the City of Fernley, its successors or assigns, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761); and

6. The purchaser/patentee, by accepting patent, agrees to indemnify, defend, and hold the United States harmless from any costs, damages, claims, causes of action, penalties, fines, liabilities, and judgments of any kind arising from the past, present, or future acts or omissions of the patentee, its employees, agents, contractors, or lessees, or a third party arising out of, or in connection with, the patentee's use and/or occupancy of the patented real property. This indemnification and hold harmless agreement includes, but is not limited to, acts and omissions of the patentee, its employees, agents, contractors, or lessees, or third party arising out of or in connection with the use and/or occupancy of the patented real property resulting in: (1) Violations of Federal, State, and local laws and regulations that are now, or in the future become, applicable to the real property; (2) Judgments, claims, or demands of any kind assessed against the United States; (3) Costs, expenses, or damages of any kind incurred by the United States; (4) Releases or threatened releases of solid or hazardous waste(s) and/or hazardous substances(s), as defined by Federal or State environmental laws, off, on, into, or under land, property, and other interests of the United States; (5) Other activities by which solid or hazardous substances or wastes, as defined by Federal and State environmental laws, are generated, released, stored, used, or otherwise disposed of on the patented real property, and any cleanup response, remedial action, or other actions related in any manner to said solid or hazardous substances or wastes; or (6) Natural resource damages as defined by Federal and State law. This covenant shall be construed as running with the patented real property and may be enforced by the United States in a court of competent jurisdiction.

7. Pursuant to the requirements established by section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), (42 U.S.C. 9620(h)), as amended by the Superfund Amendments and Reauthorization Act of 1988 (100 Stat. 1670), notice is hereby given that the above-described land has been examined and no evidence was found to indicate that any hazardous substances have been stored for one year or more, nor had any hazardous substances been disposed of or released on the subject property.

Encumbrances of record, appearing in the BLM public files for the parcel proposed for sale, are available during normal business hours at the BLM Carson City District Office.

No warranty of any kind, expressed or implied, is given by the United States as to the title, physical condition or potential uses of the parcel of land proposed for sale, and the conveyance of any such parcel will not be on a contingency basis. It is the buyer's responsibility to be aware of all applicable Federal, State, or local government laws, regulations, or policies that may affect the subject lands or its future uses. It is also the buyer's responsibility to be aware of existing or prospective uses of nearby properties. Any land lacking access from a public road and highway will be conveyed as such, and future access acquisition will be the responsibility of the buyer.

Before including your address, phone number, e-mail 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.

Any adverse comments regarding the proposed sale will be reviewed by the BLM Nevada State Director, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

(Authority: 43 CFR 2711)

Linda J. Kelly,

Field Manager, Sierra Front Field Office.

[FR Doc. E9–13318 Filed 6–5–09; 8:45 am]

BILLING CODE 4310–HC–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–665]

In the Matter of Certain Semiconductor Integrated Circuits and Products Containing Same; Notice of Commission Determination Not To Review an Initial Determination Granting-in-Part and Denying-in-Part Complainant's Motion for Leave To Amend the Complaint and Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 31) of the presiding administrative law judge (''ALJ'') granting-in-part and denying-in-part complainant's motion for leave to amend the complaint and notice of investigation.

FOR FURTHER INFORMATION: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3152. Copies of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: On December 24, 2008, the Commission instituted an investigation under section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, based on a complaint filed by Qimonda AG of Munich, Germany (''Qimonda''), alleging a violation of section 337 in the importation, sale for importation, and sale within the United States after importation of certain semiconductor integrated circuits and products containing same that infringe various claims of U.S. Patent Nos. 5,213,670; 5,646,434; 5,851,399; 6,103,456; 6,495,918; 6,593,240; and 6,714,055. 73 FR 79165 (Dec. 24, 2008). The complainant named numerous entities as respondents.

On April 20, 2009, complainant Qimonda filed a motion for leave to amend its complaint. On May 4, 2009, the ALJ issued Order No. 31 granting-in-part and denying-in-part Qimonda's motion. The ALJ determined that the notice of investigation is amended to remove Seagate Technologies International (Singapore) as a respondent, and that Qimonda's motion is otherwise denied. On May 12, 2009, Qimonda filed a petition for review of the portion of Order No. 31 that denied its motion to amend. The Commission investigative attorney and several respondents opposed the petition on May 19, 2009. Qimonda's petition is improper because it concerns a portion of Order No. 31 that is not an ID. *See* Commission rule 19 § 210. 42(c), 19 CFR 210.4(c). Qimonda's petition has not been considered by the Commission.

The Commission has determined not to review the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42(h) of the Commission's Rules of Practice and Procedure (19 CFR 210.42(h)).

Issued: May 29, 2009.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–13327 Filed 6–5–09; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on June 1, 2009, a proposed Consent Decree in *United States of America et al.* v. *AK Steel Corporation, et al.*, Civil Action No. 97–1863 was lodged with the United States District Court for the Western District of Pennsylvania.

The Consent Decree resolves the United States' claims against 36 parties at the Breslube Penn Superfund Site, located in Coraopolis, Moon Township, Pennsylvania. Those claims were brought under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9607. The Settling Defendants consist of two groups, nine Performing Defendants and 27 Non-Performing Defendants. The Commonwealth of Pennsylvania has signed the Consent Decree and will file a separate complaint.

The Consent Decree requires that Performing Defendants fund and perform the remedy selected in EPA's August 2007 Record of Decision. The estimated cost of the remedy is $8,070,000, and may increase to $12,610,000 if EPA decides two contingent remedies are necessary. The settlement also recovers past costs of the United States ($3,037,491.61), past costs of the Commonwealth ($41,356.04), and includes an agreement to pay all future response costs.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Decree. Comments should be addressed to the Assistant Attorney General, Environmental and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States of America et al.* v. *AK Steel Corporation, et al.*, Civil Action No. 97–1863 (W.D. PA), D.J. Ref. 90–11–3–1762.

The Decree may be examined at U.S. EPA Region 3, 1650 Arch Street, Philadelphia, PA 19103. During the public comment period, the Decree, may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $23.25 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E9–13240 Filed 6–5–09; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

June 2, 2009.

The Department of Labor (DOL) hereby announces the submission of the following public information collection requests (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation; including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Darrin King on 202–693–4129 (this is not a toll-free number)/e-mail: *DOL_PRA_PUBLIC@dol.gov.*

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, *Attn:* OMB Desk Officer for the Department of Labor—Employee Benefits Security Administration (EBSA), Office of Management and Budget, Room 10235, Washington, DC 20503, *Telephone:* 202–395–7316/*Fax:* 202–395–5806 (these are not toll-free numbers), E-mail: *OIRA_submission@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register.** In order to ensure the appropriate consideration, comments should reference the OMB Control Number (*see* below).

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of a currently approved collection.

Title of Collection: Definition of Plan Assets—Participant Contributions.

OMB Control Number: 1210–0100.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 1.

Total Estimated Annual Burden Hours: 1.

Total Estimated Annual Costs Burden (excludes hourly wage costs): $1,025.

Description: The Department's regulation at 29 CFR 2510.3–102 states that monies that a participant pays to, or has withheld by, an employer for contribution to an employee benefit plan become ''plan assets'' for purposes of Title I of Employee Retirement Income and Security Act of 1974 (ERISA) and the related prohibited transaction provisions of the Internal Revenue Code (the Code) as of the earliest date on which such monies can be reasonably segregated from the employer's general assets. With respect to employee pension benefit plans, the regulation further sets a maximum time limit for such contributions: the 15th business day following the end of the month in which the participant contribution amounts are received or withheld by the employer. Under ERISA, ''plan assets'' cannot be held by the employer as part of its general assets, but must be contributed to the employee benefit plan to which they belong and, with few exceptions, held in trust.

The regulation includes a procedure through which an employer receiving or withholding participant contributions for an employee pension benefit plan may obtain a 10-business-day extension of the 15-day maximum time period if certain requirements, including information collection requirements, are met. The regulation requires, among other things, that the employer provide written notice to plan participants, within 5 business days after the end of the extension period and the employer's transfer of the contributions to the plan, which the employer elected to take the extension for that month. The notice must explain why the employer could not transfer the participant contributions within the maximum time period, state that the participant contributions in question have in fact been transmitted to the plan, and provide the date on which this was done. The employer must also provide a copy of the participant notice to the Secretary, along with a certification that the notice was distributed to participants and that the other requirements under the extension procedure were met, within 5 business days after the end of the extension period. The information collections imposed under the regulation include third-party disclosures and disclosures to the government.

The information collection is intended to protect participants by ensuring that they and the Department are aware of an employer's failure to meet the regulatory time limits for transferring participant contributions to the employee pension benefit plan they are intended to fund. The Department and the affected participants can then take appropriate action to protect the plan assets. Requiring employers to make the disclosures also ensures that they follow the protective requirements that are part of the extension procedure.

For additional information, see related notice published at Vol. 74 FR13476 on March 27, 2009.

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of a currently approved collection.

Title of Collection: Termination of Abandoned Individual Account Plans.

OMB Control Number: 1210–0127.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 100.

Total Estimated Annual Burden Hours: 7,433.

Total Estimated Annual Costs Burden (excludes hourly wage costs): $3,366,300.

Description: This ICR is for three final regulations under the Employee Retirement Income Security Act of 1974 (ERISA) that facilitate the termination of, and distribution of benefits from, individual account pension plans that have been abandoned by their sponsoring employers. The first regulation establishes a procedure for financial institutions holding the assets of an abandoned individual account plan to terminate the plan and distribute benefits to the plan's participants and beneficiaries, with limited liability. The second regulation provides a fiduciary safe harbor for making distributions from terminated plans on behalf of participants and beneficiaries who fail to make an election regarding a form of benefit distribution. The third regulation establishes a simplified method for filing a terminal report for abandoned individual account plans.

The ICR also takes into account to a class prohibited transaction exemption (PTE 2006–06) that permits a ''qualified termination administrator'' (QTA) of an

individual account plan that has been abandoned by its sponsoring employer to select itself or an affiliate to provide services to the plan in connection with the termination of the plan, to pay itself or an affiliate fees for those services, and to pay itself for services provided prior to the plan's deemed termination, and class Prohibited Transaction Exemption 2004–16, which permits a pension plan fiduciary that is a financial institution and is also the employer maintaining an individual account pension plan for its employees to establish, on behalf of its separated employees, an IRA at a financial institution that is either the employer or an affiliate, which IRA would receive mandatory distributions that the fiduciary ''rolls over'' from the plan when an employee terminates employment.

For additional information, *see* related notice published at Vol. 74 FR13478.

Dated: March 27, 2009.

Darrin A. King,

Departmental Clearance Officer.

[FR Doc. E9–13299 Filed 6–5–09; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Office of the Secretary

Combating Exploitive Child Labor Through Education in Guatemala, Indonesia, Nepal, and Rwanda

AGENCY: Bureau of International Labor Affairs, U.S. Department of Labor.

ACTION: New. Notice of Availability of Funds and Solicitation for Cooperative Agreement Applications (SGA). The full announcement is posted on *http://www.grants.gov* and USDOL/ILAB's Web site at *http://www.dol.gov/ILAB/grants/main.htm.*

Funding Opportunity Number: SGA 09–06.

Catalog of Federal Domestic Assistance (CFDA) Number: Not applicable.

Summary: The U.S. Department of Labor (USDOL), Bureau of International Labor Affairs (ILAB) will award up to USD 18.45 million through 4 or more cooperative agreements to one or more qualifying organizations and/or Associations to combat exploitive child labor in the following 4 countries: Guatemala (up to USD 4.2 million), Indonesia (up to USD 5.5 million), Nepal (up to USD 4.25 million) and Rwanda (up to USD 4.5 million). Projects funded under SGA 09–06 will seek to ensure children's long-term withdrawal and prevention from exploitive child labor, including through the provision of direct educational services, and build capacity in target countries to eliminate exploitive child labor.

Application and Submission Information: The full-text version of SGA 09–06 is available on *http://www.grants.gov* and USDOL/ILAB's Web site at *http://www.dol.gov/ILAB/grants/main.htm*

All applications in response to this solicitation may be submitted in hard copy or electronically via *http://www.grants.gov.* Applications submitted by other means, including e-mail, telegram, or facsimile (FAX) will not be accepted. Irrespective of submission method, all applications must be received by USDOL by 5 p.m. Eastern Standard Time (EST) on July 27, 2009. Applicants electing to submit hard copies must submit one (1) blue ink-signed original, complete application, *plus* three (3) additional copies of the application. Applicants electing to submit electronically must submit one electronic copy of the complete application via *http://www.grants.gov* no later than 5 p.m. Eastern Standard Time (EST) on July 27, 2009. Hard copy applications must be delivered to: U.S. Department of Labor, Office of Procurement Services, 200 Constitution Avenue, NW., Room S–4307, Washington, DC 20210, *Attention:* Lisa Harvey, Reference: Solicitation 09–06. Applicants submitting via *http://www.grants.gov* are responsible for ensuring that their applications are received by *http://www.grants.gov* by the deadline. Applicants are advised to submit their applications in advance of the deadline.

Key Dates: The deadline for submission of applications is July 27, 2009. All technical questions regarding SGA 09–06 must be sent by June 30, 2009 in order to receive a response. USDOL will make all cooperative agreement awards on or before September 30, 2009.

Agency Contacts: All technical questions regarding SGA 09–06 should be sent to Lisa Harvey, Grant Officer, U.S. Department of Labor's Office of Procurement Services, via e-mail (e-mail address: *harvey.lisa@dol.gov*, with a copy to Georgiette Nkpa at *nkpa.georgiette@dol.gov; telephone:* (202) 693–4570)—please note that this is not a toll-free-number).

Background Information: Since 1995, the U.S. Congress has appropriated over USD 720 million to ILAB for efforts to combat exploitive child labor internationally. This funding has been used to support technical cooperation projects to combat exploitive child labor, including the worst forms, in more than 80 countries around the world. Technical cooperation projects funded by USDOL range from targeted action programs in specific sectors of work to more comprehensive programs that support national efforts to eliminate the worst forms of child labor, as defined by International Labor Organization (ILO) Convention 182. Projects funded by USDOL to combat exploitive child labor internationally seek to achieve the following five goals:

1. Withdraw and prevent children from involvement in exploitive child labor through the provision of direct educational and training services;
2. Strengthen policies on child labor and education, the capacity of national institutions to combat child labor, and formal and transitional education systems that encourage working children and those at risk of working to attend school;
3. Raise awareness of the importance of education for all children and mobilize a wide array of actors to improve and expand education infrastructures;
4. Support research and the collection of reliable data on child labor; and
5. Ensure the long-term sustainability of these efforts.

Since 1995, USDOL-funded projects have withdrawn or prevented over 1.3 million children from exploitive labor.

Signed at Washington, DC, this 3rd day of June, 2009.

Lisa Harvey,

Grant Officer.

[FR Doc. E9–13319 Filed 6–5–09; 8:45 am]

BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2009–0018]

Federal Advisory Council on Occupational Safety and Health (FACOSH)

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Announcement of meeting.

SUMMARY: The Federal Advisory Council on Occupational Safety and Health (FACOSH) will meet June 25, 2009, in Washington, DC.

DATES:

FACOSH meeting: FACOSH will meet from 1:30 p.m. to 5 p.m., Thursday, June 25, 2009.

Submission of comments and requests to speak: Comments and requests to

speak at the FACOSH meeting must be submitted (postmarked, sent, transmitted) by June 18, 2009.

ADDRESSES:

FACOSH meeting: FACOSH will meet in Room C–5521, Conference Room 4, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Submission of comments and requests to speak: Comments and requests to speak at the FACOSH meeting, identified by Docket No. OSHA–2009–0018, may be submitted by any of the following methods:

Electronically: You may submit materials, including attachments, electronically at *http://www.regulations.gov*, the Federal eRulemaking Portal. Follow the online instructions for making submissions.

Facsimile: If your submission, including attachments, does not exceed 10 pages, you may fax it to the OSHA Docket Office at (202) 693–1648.

Mail, express delivery, hand delivery, messenger or courier service: You must submit three copies of your submissions to the OSHA Docket Office, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (TTY (877) 889–5627). Deliveries (hand, express mail, messenger and courier service) are accepted during the Department of Labor's and OSHA Docket Office's normal business hours, 8:15 a.m.–4:45 p.m., e.t.

Requests for special accommodations for FACOSH meeting: Submit requests for special accommodations by telephone, e-mail or hard copy to Ms. Veneta Chatmon, OSHA, Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1999; e-mail *chatmon.veneta@dol.gov.*

Instructions: All submissions must include the Agency name and docket number for this **Federal Register** notice (Docket No. OSHA–2009–0018). Because of security-related procedures, submissions by regular mail may result in a significant delay in their receipt. Please contact the OSHA Docket Office, at the address above, for information about security procedures for making submissions by hand delivery, express delivery, and messenger or courier service. For additional information on submitting comments and requests to speak, see the **SUPPLEMENTARY INFORMATION** section below.

Comments and requests to speak, including any personal information provided, will be posted without change at *http://www.regulations.gov*. Therefore, OSHA cautions interested parties about submitting certain personal information such as social security numbers and birth dates.

Docket: To read or download submissions in response to this **Federal Register** notice, go to Docket No. OSHA–2009–0018 at *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some documents (*e.g.,* copyrighted material) are not publicly available to read or download through *http://www.regulations.gov*. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

FOR FURTHER INFORMATION CONTACT:

For press inquiries: Ms. Jennifer Ashley, OSHA, Office of Communications, U.S. Department of Labor, Room N–3647, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1999.

For general information: Mr. Francis Yebesi, OSHA, Office of Federal Agency Programs, U.S. Department of Labor, Room N–3622, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2122; e-mail *ofap@dol.gov*.

For special accommodations for the FACOSH meeting: Ms. Veneta Chatmon, OSHA, Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1999; e-mail *chatmon.veneta@dol.gov.*

SUPPLEMENTARY INFORMATION:

FACOSH will meet Thursday, June 25, 2009, in Washington, DC. All FACOSH meetings are open to the public.

FACOSH is authorized by 5 U.S.C. 7902, section 19 of the Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 668), and Executive Order 12196 to advise the Secretary of Labor on all matters relating to the occupational safety and health of Federal employees. This includes providing advice on how to reduce and keep to a minimum the number of injuries and illnesses in the Federal workforce and how to encourage each Federal Executive Branch Department and Agency to establish and maintain effective occupational safety and health programs.

The tentative agenda for the FACOSH meeting includes:

- FY 2009 performance status of Federal Executive Branch Agencies in meeting the four goals of the Presidential Safety, Health, and Return-to-Employment (SHARE) Initiative;
- Progress on the Federal Agency injury and illness recordkeeping data collection effort;
- Tracking incidents related to emergency response and recovery operations;
- Update on the Federal Agency Targeting Inspection Program (FEDTARG 09);
- FACOSH member nominations;
- OSHA outreach and education related to H1N1 Influenza; and
- OSHA and the American Recovery and Reinvestment Act of 2009.

FACOSH meetings are transcribed and detailed minutes of the meetings are prepared. Meeting transcripts, minutes and other materials presented at the meeting are included in the FACOSH meeting record.

Public Participation

FACOSH meetings and meetings of FACOSH subcommittees are open to the public. Interested parties may submit a request to make an oral presentation to FACOSH by one of the methods listed in the **ADDRESSES** section. The request must state the amount of time requested to speak, the interest represented (*e.g.,* organization name), if any, and a brief outline of the presentation. Requests to address FACOSH may be granted as time permits and at the discretion of the FACOSH chair.

Interested parties also may submit comments, including data and other information, using any of the methods listed in the **ADDRESSES** section. OSHA will provide all submissions to FACOSH members prior to the meeting.

Individuals who need special accommodations and wish to attend the FACOSH meeting must contact Ms. Chatmon by any of the methods listed in the **ADDRESSES** section.

Submissions and Access to Meeting Record

You may submit comments, requests to speak and requests for special accommodations (1) electronically, (2) by facsimile, or (3) by hard copy. All submissions, including attachments and other materials, must identify the Agency name and the OSHA docket number for this notice (Docket No. OSHA–2009–0018). You may supplement electronic submissions by uploading documents electronically. If, instead, you wish to submit hard copies of supplementary documents, you must submit three copies to the OSHA Docket Office using the instructions in the **ADDRESSES** section. The additional materials must clearly identify your

electronic submission by name, date and docket number.

Because of security-related procedures, the use of regular mail may cause a significant delay in the receipt of submissions. For information about security procedures concerning the delivery of submissions by hand, express delivery, messenger or courier service, please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627).

Meeting transcripts and minutes as well as written comments and requests to speak are included in the public record of the FACOSH meeting (Docket No. OSHA–2009–0018). Written comments and requests to speak are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions interested parties about submitting certain personal information such as social security numbers and birth dates. Although all submissions are listed in the *http://www.regulations.gov* index, some documents (*e.g.,* copyrighted material) are not publicly available to read or download through *http://www.regulations.gov*. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

Information on using the *http://www.regulations.gov* Web site to make submissions and to access the docket and exhibits is available at the Web site's User Tips link. Contact the OSHA Docket Office for information about materials not available through the Web site and for assistance in using the Internet to locate submissions and other documents in the docket.

Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov*. This notice, as well as news releases and other relevant information, is also available at OSHA's Web page at *http://www.osha.gov*.

Authority and Signature

Jordan Barab, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice under the authority granted by section 19 of the Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 668), 5 U.S.C. 7902, section 1–5 of Executive Order 12196, the Federal Advisory Committee Act (5 U.S.C. App.2) and regulations issued under FACA (41 CFR Part 102–3), and Secretary of Labor's Order No. 5–2007 (72 FR 31160).

Signed at Washington, DC, this 3rd day of June 2009.

Jordan Barab,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. E9–13342 Filed 6–5–09; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of petitions for modification of existing mandatory safety standards.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification filed by the parties listed below to modify the application of existing mandatory safety standards published in Title 30 of the Code of Federal Regulations.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations and Variances on or before July 8, 2009.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *Electronic Mail: Standards-Petitions@dol.gov*.
2. *Facsimile:* 1–202–693–9441.
3. *Regular Mail:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209, *Attention:* Patricia W. Silvey, Director, Office of Standards, Regulations and Variances.
4. *Hand-Delivery or Courier:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209, Attention: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments. Individuals who submit comments by hand-delivery are required to check in at the receptionist desk on the 21st floor.

Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (E-mail), or 202–693–9441 (Telefax). [These are not toll-free numbers].

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary determines that: (1) An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or (2) that the application of such standard to such mine will result in a diminution of safety to the miners in such mine. In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2009–013–C.
Petitioner: Wolf Run Mining Company, LLC, RT 3 Box 146, Philippi, West Virginia 26416.
Mine: Sentinel Mine, MSHA I.D. No. 46–04168, located in Barbour County, West Virginia.
Regulation Affected: 30 CFR 75.1101–1(b) (Deluge-type water spray systems).
Modification Request: The petitioner requests a modification of the existing standard to not provide blow-off dust covers on nozzles on deluge type systems. The petitioner states that although more than adequate pressure and flow rates for the deluge system are maintained, in some tests, the dust covers do not come off all sprays. The petitioner proposes to continue its weekly functional testing of the complete deluge-type water spray system. The petitioner further states that dust covers are not necessary because the system will be inspected and maintained weekly. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners by the existing standard.

Docket Number: M–2009–014–C.
Petitioner: Jim Walter Resources, Inc., P.O. Box 133, Brookwood, Alabama 35444.
Mine: No. 4 Mine, MSHA I.D. No. 01–01247, located in Tuscaloosa County, Alabama.

Regulation Affected: 30 CFR 75.351(q)(2) (Atmospheric monitoring systems).

Modification Request: The petitioner requests a modification of the existing standard to permit the mine manager at the No. 4 Mine to certify in writing, once every six months that the CO Supervisor has demonstrated competence in the subject matter of the referenced standard without requiring him to travel underground. The petitioner states that: (1) The room where the CO Supervisor works is equipped with more than a dozen cameras trained on key underground areas, and these cameras give the CO Supervisor a real-time continual view of activities and events in these areas; (2) the room where the CO Supervisor works is equipped with computer equipment that is part of a monitoring system that gives a more extensive continual view of the No. 4 Mines underground workings; and (3) the room where the CO Supervisor works is equipped with an underground mine map that is regularly updated, and the CO Supervisor regularly refers to this map when performing his duties. The petitioner further states that allowing the mine manger at the No. 4 Mine to certify in writing, once every six months that the CO Supervisor has demonstrated competence in the subject matter of the referenced standard without requiring him to travel underground will advance the safety and health purposes of the Act and will at all times guarantee at least the same measure of safety to the miners as the referenced standard.

Docket Number: M–2009–002–M.

Petitioner: Resolution Copper Mining, 102 Magma Heights, P.O. Box 1944, Superior, Arizona 85273.

Mine: Resolution Copper Mine, MSHA I.D. No. 02–00152, located in Pinal County, Arizona.

Regulation Affected: 30 CFR 57.15030 (Provision and maintenance of self-rescue devices).

Modification Request: The petitioner requests a modification of the existing standard to permit the miner to wear the Ocenco M–20 self-contained self-rescue (SCSR) (MSHA rated 10 minutes) unit on their person and a 60 minute unit (the CSE SR–100 or equivalent MSHA rated for 60 minutes) on their vehicles or equipment. The petitioner states that: (1) In addition, caches of these units will be placed and maintained at strategic locations within 300 to 500 feet or 5 minutes maximum of the employee; (2) the combination of devices will be made available to all employees working underground and maintained in good condition; and (3) every underground miner will be trained on an annual basis in the use, limitations, care, and donning (including transition donning) of self-contained self-rescue devices. The petitioner further states that: (1) This proposal will satisfy the State Mining Act while enabling the miners to wear an ergonomically suitable SCSR on their belt; (2) the alternative to the smaller M–20 type are bulky and heavy units that will expose the miners to additional risk associated with a large and heavy unit hanging off their belt; and (3) the current MSA W–65 filter self-rescuer (Approval No. TC–14G–82) weighs 2.2 pounds, and the smallest SCSR is the SR–100 which weighs 6 pounds and is approximately 2.5 pounds larger than the W–65 filter and is awkward to wear. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Docket Number: M–2009–003–M.

Petitioner: Resolution Copper Mining, 102 Magma Heights, P.O. Box 1944, Superior, Arizona 85273.

Mine: Resolution Copper Mine, MSHA I.D. No. 02–00152, located in Pinal County, Arizona.

Regulation Affected: 30 CFR 57.15031 (Location of self-rescue devices).

Modification Request: The petitioner requests a modification of the existing standard to permit the miner to wear the Ocenco M–20 self-contained self-rescue (SCSR) (MSHA rated 10 minutes) unit on their person and a 60 minute unit (the CSE SR–100 or equivalent MSHA rated for 60 minutes) on their vehicles or equipment. The petitioner states that: (1) In addition, caches of these units will be placed and maintained at) strategic locations within 300 to 500 feet or 5 minutes maximum of the employee; (2) the combination of devices will be made available to all employees working underground and maintained in good condition; and (3) every underground miner will be trained on an annual basis in the use, limitations, care, and donning (including transition donning) of self-contained self-rescue devices. The petitioner further states that: (1) This proposal will satisfy the State Mining Act while enabling the miners to wear an ergonomically suitable SCSR on their belt; (2) the alternative to the smaller M–20 type are bulky and heavy units that will expose the miners to additional risk associated with a large and heavy unit hanging off their belt; and (3) the current MSA W–65 filter self-rescuer (Approval No. TC–14G–82) weighs 2.2 pounds, and the smallest SCSR is the SR–100 which weighs 6 pounds and is approximately 2.5 pounds larger than the W–65 filter and is awkward to wear. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. E9–13173 Filed 6–5–09; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before July 8, 2009. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting the Life Cycle Management Division (NWML) using one of the following means:

Mail: NARA (NWML), 8601 Adelphi Road, College Park, MD 20740–6001.

E-mail: request.schedule@nara.gov.

Fax: 301–837–3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Laurence Brewer, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. *Telephone:* 301–837–1539. *E-mail: records.mgt@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless specified otherwise. An item in a schedule is media neutral when the disposition instructions may be applied to records regardless of the medium in which the records are created and maintained. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is limited to a specific medium. (*See* 36 CFR 1228.24(b)(3).)

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending:

1. Department of the Army, Agency-wide (N1–AU–09–5, 1 item, 1 temporary item). Master files of an electronic information system that contains college transcript data, such as course descriptions, test scores, and credit recommendations.

2. Department of the Army, Agency-wide (N1–AU–09–21, 1 item, 1 temporary item). Master files of an electronic information system used to simulate battlefield situations for training purposes.

3. Department of the Army, Agency-wide (N1–AU–09–22, 1 item, 1 temporary item). Master files of an electronic information system used to develop training products and publications.

4. Department of the Army, Agency-wide (N1–AU–09–27, 1 item, 1 temporary item). Master files of an electronic information system used to track information concerning supplies and equipment issued during training exercises.

5. Department of the Army, Agency-wide (N1–AU–09–33, 1 item, 1 temporary item). Master files of an electronic information system that contains information on training products and services, such as training plans, requirements, and lists of resources.

6. Department of Education, Office of Management (N1–441–08–11, 2 items, 2 temporary items). Records pertaining to the calculation, dissemination, and appeal of cohort default rates relating to Federal student aid loans. Master files of an electronic information system relating to challenges and appeals are included.

7. Department of Homeland Security, Office of Health Affairs (N1–563–08–18, 2 items, 2 temporary items). Master files and outputs associated with an electronic information system containing intelligence data and open source news information analyzed to identify pre-operational planning for terrorism and other events involving biological threats.

8. Department of Justice, Justice Management Division (N1–60–09–14, 2 items, 2 temporary items). Master files and outputs for a closed circuit television system used to monitor interior and exterior areas of the agency's main building in Washington, DC.

9. Department of Justice, Bureau of Prisons (N1–129–09–19, 1 item, 1 temporary item). Electronic database containing staffing and personnel information used for workplace planning, including such information as employment history, career preference, education, training, and language skills.

10. Department of Labor, Office of Inspector General (N1–174–09–1, 1 item, 1 temporary item). Master files of an electronic information system that contains electronic mail messages received or sent by regional and resident Inspector General offices.

11. Department of State, Bureau of Consular Affairs (N1–59–09–25, 1 item, 1 temporary item). Master files of an electronic information system used to track and monitor applications for visas from foreign nations for official U.S. Government travelers.

12. Department of State, Bureau of Diplomatic Security (N1–59–09–17, 1 item, 1 temporary item). Master files of an electronic information system used to track employees' work schedules and special assignments.

13. Department of State, Bureau of Overseas Buildings Operations (N1–59–09–24, 2 items, 2 temporary items). Master files and outputs of an electronic information system which contains data on contracts, budget matters, maintenance, and operations associated with overseas facilities and other real estate.

14. Department of State, Bureau of Overseas Buildings Operations (N1–59–09–26, 2 items, 2 temporary items). Master files and outputs of an electronic information system which contains data concerning such matters as funding of facilities maintenance projects, installation of fire equipment, furniture shipments, and other facilities-related activities.

15. Department of State, Bureau of Overseas Buildings Operations (N1–59–09–27, 2 items, 2 temporary items). Master files and outputs of an electronic

information system which contains environmental data concerning overseas buildings owned or leased by the agency. Records include water quality data, indoor air quality measurements, asbestos-related data, and similar information.

16. Department of the Treasury, Internal Revenue Service (N1–58–09–12, 2 items, 2 temporary items). Inputs and master files of an electronic information system used to ensure that employers accurately report wage data to the agency and to the Social Security Administration.

17. Department of the Treasury, Internal Revenue Service (N1–58–09–13, 2 items, 2 temporary items). Inputs and master files of an electronic information system used to identify non-filers and late filers so as to ensure compliance. This data is also used for compliance research.

18. Environmental Protection Agency, Agency-wide (N1–412–09–7, 1 item, 1 temporary item). Electronic data maintained in laboratory information management systems that are used to receive, store and report data generated from laboratory analysis of environmental samples using scientific instruments. Data elements can include sample data and metadata (*e.g.,* who took the sample and where, what was asked to be analyzed, who analyzed the sample, and when).

19. Environmental Protection Agency, Agency-wide (N1–412–09–8, 1 item, 1 temporary item). Electronic data copied or downloaded from other information systems at specific intervals and maintained in data marts and data warehouses in order to provide easy access and facilitate analysis and reporting. The offices responsible for the individual systems from which the data marts and warehouses copy or download their data manage their system data under specific schedules governing their disposition.

20. Nuclear Regulatory Commission, Office of Nuclear Regulatory Research (N1–431–08–21, 4 items, 2 temporary items). Interim system documentation and status reports posted on the agency's public website relating to significant safety issues at nuclear facilities. Master files and formal reports relating to these issues are proposed for permanent retention.

21. Securities and Exchange Commission, Office of the Chief Accountant (N1–266–09–2, 3 items, 1 temporary item). Correspondence, memorandums, and e-mail messages relating to the preparation of congressionally mandated studies. Final reports and working papers are proposed for permanent retention.

Dated: May 29, 2009.

Michael J. Kurtz,

Assistant Archivist for Records Services—Washington, DC.

[FR Doc. E9–13348 Filed 6–5–09; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2009–0041]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** Notice with a 60-day comment period on this information collection on March 6, 2009.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* 10 CFR Part 55, ''Operators' Licenses''.

3. *Current OMB approval number:* 3150–0018.

4. *The form number if applicable:* NA.

5. *How often the collection is required:* As necessary for NRC to meet its responsibilities to determine the eligibility of applicants for operators' licenses, prepare or review initial operator licensing and requalification examinations for and performance of simulation facilities.

6. *Who will be required or asked to report:* Holders of, and applicants for, facility (i.e. nuclear power and research and test reactors) operating licenses and individual operators' licenses.

7. *An estimate of the number of annual responses:* 345.

8. *The estimated number of annual respondents:* 243.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 120,377.

10. Abstract: 10 CFR Part 55, ''Operators' Licenses,'' of the NRC's regulations, specifies information and data to be provided by applicants and facility licenses so that the NRC may make determinations concerning the licensing and requalification of operators for nuclear reactors, as necessary to promote public health and safety. The reporting and recordkeeping requirements contained in 10 CFR Part 55 are mandatory for the licensees and applicants affected.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by July 8, 2009. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

NRC Desk Officer, Office of Information and Regulatory Affairs (3150–0018), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

The NRC Clearance Officer is Tremaine Donnell, (301) 415–6258.

Dated at Rockville, Maryland, this 1st day of June 2009.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. E9–13295 Filed 6–5–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–005; NRC–2009–0228, Facility License No. R–2]

The Pennsylvania State University Notice of Acceptance for Docketing of the Application and Notice of Opportunity for Hearing Regarding Renewal of Breazeale Reactor for an Additional 20-Year Period

The Nuclear Regulatory Commission (NRC or the Commission) is considering an application for the renewal of Facility Operating License No. R–2, which authorizes the Pennsylvania State University (PSU or the licensee) to operate the Penn State Breazeale Reactor (PSBR) at 1,000 kilowatts thermal power. The renewed license would

authorize the licensee to operate the PSBR for an additional 20 years from the date of issuance.

On December 6, 2005, the Commission's staff received an application from PSU filed pursuant to 10 CFR Part 50.51(a), to renew Facility Operating License No. R–2 for the PSBR. Because the license renewal application was filed in a timely manner in accordance with 10 CFR 2.109, the license will not be deemed to have expired until the license renewal application has been finally determined.

Based on its initial review of the application, the Commission's staff determined that PSU submitted sufficient information in accordance with 10 CFR 50.33 and 50.34 so that the application is acceptable for docketing. The current Docket No. 50–005 for Facility Operating License No. R–2 will be retained. The docketing of the renewal application does not preclude requests for additional information as the review proceeds, nor does it predict whether the Commission will grant or deny the application. Prior to a decision to renew the license, the Commission will make findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

Within 60 days after the date of publication of this notice, the applicant may file a request for a hearing, and any person(s) whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene, via electronic submission through the NRC E-filing system. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland and on the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr.* Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If a request for a hearing or petition for leave to intervene is filed within the 60-day period, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner/requestor in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions that the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion that supports the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the licensing action (*i.e.,* license renewal) under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E–Filing rule, which the NRC promulgated on August 28, 2007 (72 FRN 49139). The E–Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E–Filing, at least ten (10) days prior to the filing deadline, the petitioner/requestor must contact the Office of the Secretary by e-mail at *HEARINGDOCKET@NRC.GOV,* or by calling (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E–Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E–Filing system. The Workplace Forms Viewer™ is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html.* Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.*

Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E–Filing system time-stamps the document and sends the submitter an e-mail notice

confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E–Filing system.

A person filing electronically using the agency's adjudicatory e-filing system may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC electronic filing Help Desk, which is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays. The toll-free help line number is (866) 672–7640. A person filing electronically may also seek assistance by sending an e-mail to the NRC electronic filing Help Desk at *MSHD.Resource@nrc.gov.*

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First-class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii). To be timely, filings must be submitted no later than 11:59 p.m. Eastern Time on the due date.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp,* unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submissions.

Detailed guidance which the NRC uses to review applications for the renewal of non-power reactor licenses can be found in the document NUREG–1537, entitled ''Guidelines for Preparing and Reviewing Applications for the Licensing of Non-Power Reactors,'' which can be obtained from the Commission's PDR. The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The detailed review guidance (NUREG–1537) may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html* under ADAMS Accession No. ML041230055 for part one and ML041230048 for part two. Copies of the application to renew the facility license for the licensee are available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852–2738. The initial application and other related documents may be accessed through the NRC's Public Electronic Reading Room, at the address mentioned above, under ADAMS Accession No. ML080840445 (Redacted Version). Persons who do not have access to ADAMS, or have problems accessing the documents located in ADAMS, may contact the NRC PDR Reference staff at (800) 397–4209, or locally, (301) 415–4737, or by e-mail to *pdr.resource@nrc.gov.*

Dated at Rockville, Maryland, the 1st day of June, 2009.

For the Nuclear Regulatory Commission.

Kathryn M. Brock,

Chief, Research and Test Reactors Branch A, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

[FR Doc. E9–13296 Filed 6–5–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–247 and 50–286; NRC–2008–0455; License Nos. DPR–26 and DPR–64]

Entergy Nuclear Operations, Inc.; Entergy Nuclear Indian Point 2, LLC; Entergy Nuclear Indian Point 3, LLC; Notice of Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission (NRC or Commission) has issued a Director's Decision with regard to petitions filed by Mr. Sherwood Martinelli, hereinafter referred to as the ''Petitioner.'' The original petition, dated September 28, 2007, was amended by petition dated January 24, 2008. The NRC subsequently combined the above two petitions with a third petition dated March 30, 2008. The petitions were supplemented on December 21, 2007, and August 14, 2008, with transcripts of meetings between the NRC and the Petitioner. The petitions concern the operation of the Indian Point Nuclear Generating Unit Nos. 2 and 3 (Indian Point) owned by Entergy Nuclear Indian Point 2, LLC and Entergy Nuclear Indian Point 3, LLC, respectively, and operated by Entergy Nuclear Operations, Inc. (Entergy).

The petitions requested immediate suspension of the operating licenses for Indian Point Unit Nos. 2 and 3 and the imposition of daily civil penalties until the licensee implements a new emergency siren system with backup electrical power as required by the Energy Policy Act of 2005.

As the basis for the September 28, 2007, request, the Petitioner expressed his belief that the emergency siren system is the first and best chance that citizens will have in protecting themselves and their families in the event of a terrorist attack and/or a significant radiological event at the Indian Point facility. The Petitioner noted that the Energy Policy Act of 2005 required that a backup electrical power supply be provided for the emergency siren system at Indian Point and that the licensee failed to meet successive implementation deadlines imposed by

the NRC for January 30, April 15, and August 24, 2007. The Petitioner requested that (1) the Indian Point facilities be shut down until such time as the new emergency siren system with backup electrical power is fully operational and has met all Federal Emergency Management Agency (FEMA) and NRC requirements and (2) Entergy be fined $130,000 per day from the date of his petition until Entergy complies with the NRC's Confirmatory Order dated January 31, 2006.

As the basis for the January 24, 2008, request that amended the original petition, the Petitioner cited Entergy's lack of adequate maintenance and aging management procedures leading to the discovery of significant corrosion on components of the new emergency siren system. The Petitioner requested that (1) the Indian Point facilities be shut down, (2) the operating licenses for the Indian Point facilities be suspended until they are in full compliance with their design basis threat, current licensing basis, and all NRC rules and regulations, and (3) Entergy be fined $500,000 per day until the new siren system has been fully approved by all levels of government.

As the basis for the March 30, 2008, request, the Petitioner citing numerous discharges of radiological and chemical carcinogens, both legal and illegal, over an extended period of time that continue to expose the Petitioner, his family, and pets to contaminants. The Petitioner again requested that the Indian Point facilities be shut down and remain shut down until a large number of actions are completed including implementation of the new emergency siren system that has received all government approvals.

On December 21, 2007, and August 14, 2008, the Petitioner and the licensee met with the staff's Petition Review Board. The meetings gave the Petitioner and the licensee an opportunity to provide additional information and to clarify issues cited in the petition.

The NRC sent a copy of the proposed Director's Decision to the Petitioner and to Entergy for comment on March 23, 2009. The staff did not receive any comments on the proposed Director's Decision.

The Director of the Office of Nuclear Reactor Regulation denied the Petitioner's request to suspend the operating licenses of the Indian Point Nuclear Generating Unit Nos. 2 and 3 and the Petitioner's request to impose daily civil penalties for the untimely implementation of the new siren system. In addition, the Petitioner's request to place Indian Point Unit Nos. 2 and 3 in cold shutdown, and to suspend the licenses of Indian Point Unit Nos. 2 and 3 until the licensee comes into full compliance with the design basis threat, the current licensing basis and all NRC rules, because of corrosion in siren components, was also denied. The reasons for this decision are explained in the Director's Decision pursuant to Title 10 of Code of Federal Regulations (10 CFR) Section 2.206 [DD–09–01], the complete text of which is available in Agencywide documents Access and Management System (ADAMS) Accession No. ML091210629 for inspection at the Commission's Public Document Room, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and from the ADAMS Public Library component on the NRC's Web site, *http://www.nrc.gov/reading-rm.html* (the Public Electronic Reading Room).

A copy of the Director's Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206 of the Commission's regulations. As provided for by this regulation, the Director's Decision will constitute the final action of the Commission 25 days after the date of the decision, unless the Commission, on its own motion, institutes a review of the director's decision in that time.

Dated at Rockville, Maryland, this 29th day of May 2009.

For the Nuclear Regulatory Commission.

Eric J. Leeds,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. E9–13297 Filed 6–5–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2008–0497]

NRC Enforcement Policy Revision

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability of revised draft supplements and request for comments.

SUMMARY: On September 15, 2008 (73 FR 53286), the Nuclear Regulatory Commission (NRC) published a notice of availability and request for comments on its draft proposed revised Enforcement Policy (Enforcement Policy). A corrected proposed revised Enforcement Policy was published on October 16, 2008 (73 FR 61442). The public comment period for the revised Enforcement Policy ended on November 14, 2008. The NRC is now soliciting written comments from interested parties including public interest groups, States, members of the public and the regulated industry (*i.e.,* reactor and materials licensees, vendors, and contractors), on additional proposed revisions to Section 6.0, Supplements–Violation Examples, of the proposed revised Enforcement Policy. This Notice of Availability and request for comments apply only to new proposed revisions to Section 6.0 of the proposed revised Enforcement Policy.

DATES: Submit comments on or before July 8, 2009. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Comments will be made available to the public in their entirety; personal information, such as your name, address, telephone number, e-mail address, etc. will not be removed from your submission. You may submit comments by any one of the following methods:

Federal e-Rulemaking Portal: http://www.regulations.gov; search on docket ID: NRC–2008–0497.

Mail Comments to: Michael T. Lesar, Chief, Rulemaking and Directives Branch, Mail Stop: TWB–05–B01M, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

You can access publicly available documents related to this notice using the following methods:

Federal e-Rulemaking Portal: Documents related to this notice, including public comments, are accessible at *http://www.regulations.gov,* by searching on docket ID: NRC–2008–0497.

NRC's Public Document Room (PDR): The public may examine and have copied for a fee, publicly available documents at the NRC's PDR, Public File Area O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

NRC's Agencywide Document Access and Management System (ADAMS): The revised draft Supplements of the proposed revised Enforcement Policy are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html* under ADAMS Accession Number (ML091520156). From this site, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. In addition, revised draft Supplements of the proposed revised Enforcement

Policy will be available at *http://www.nrc.gov/about-nrc/regulatory/enforcement/public-involvement.html.* If you do not have Internet access or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr.resource@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Doug Starkey, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555; *Doug.Starkey@nrc.gov,* 301–415–3456.

SUPPLEMENTARY INFORMATION:

Background

As discussed in the **SUPPLEMENTARY INFORMATION** of the September 15, 2008 document (73 FR 53286), the NRC, in developing the proposed revised Enforcement Policy, in many instances reworded, deleted, or moved (*i.e.,* moved to the NRC Enforcement Manual, an NRC staff guidance document) some of the information in the current Enforcement Policy. (*See* the table at ML083050133 for a listing of subject matter in the current Enforcement Policy which was not carried over into the proposed revised Enforcement Policy.) For example, Section 6.0, Supplements–Violation Examples, of the proposed revised Enforcement Policy was significantly reorganized, reworded, and contained much less detail than the supplements in the current Enforcement Policy. In addition, the NRC had also planned to add detailed violation examples to the Enforcement Manual to serve as further guidance to NRC inspectors. However, based on public comments received in response to the September and October 2008 publications of the proposed revised Enforcement Policy, the NRC has reconsidered its original plan to have abbreviated violation examples in the revised Enforcement Policy and detailed violation examples in the Enforcement Manual. The NRC now proposes to continue its past practice of providing violation example supplements in the Enforcement Policy. These revised supplements are intended to cover, in more detail than originally planned, a broad range of circumstances in each of the four severity levels in each of 14 activity areas. It should be noted that the supplements in Section 6.0 of the proposed revised Enforcement Policy are not intended to address every possible circumstance and are therefore neither exhaustive nor controlling.

Because the revised violation supplements that are being proposed for the revised Enforcement Policy have, in some instances, been changed significantly from those previously published, the NRC is providing an opportunity for public comments on the proposed revised supplements.

The NRC maintains the Enforcement Policy on its Web site at *http://www.nrc.gov;* select Public Meetings and Involvement, Enforcement, and then Enforcement Policy.

Procedural Requirements:

Paperwork Reduction Act

This policy statement does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget (OMB), approval number 3150–0136.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

Congressional Review Act

In accordance with the Congressional Review Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs.

For the Nuclear Regulatory Commission.

Dated at Rockville, MD, this 1st day of June 2009.

Cynthia A. Carpenter,

Director, Office of Enforcement.

[FR Doc. E9–13298 Filed 6–5–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0208]

Report to Congress on Abnormal Occurrences; Fiscal Year 2008; Dissemination of Information

Section 208 of the Energy Reorganization Act of 1974 (Pub. L. 93–438) defines an abnormal occurrence (AO) as an unscheduled incident or event which the U.S. Nuclear Regulatory Commission (NRC) determines to be significant from the standpoint of public health or safety. The Federal Reports Elimination and Sunset Act of 1995 (Pub. L. 104–68) requires that AOs be reported to Congress annually. During Fiscal Year 2008, ten events that occurred at facilities licensed or otherwise regulated by the NRC and/or Agreement States were determined to be AOs. The report describes five events at NRC-licensed facilities. The first NRC-licensee event involved radiation exposure to an embryo/fetus. The other four NRC-licensee events were medical events, as defined in Title 10, Part 35, of the *Code of Federal Regulations* (10 CFR Part 35). All five NRC-licensee events occurred at medical institutions. The report also describes five events at Agreement State-licensed facilities. [Agreement States are those States that have entered into formal agreements with the NRC pursuant to Section 274 of the Atomic Energy Act (AEA) to regulate certain quantities of AEA licensed material at facilities located within their borders.] Currently, there are 35 Agreement States. The first Agreement State-licensee event involved radiation exposure to an embryo/fetus. The other four Agreement State-licensee events were medical events, as defined in 10 CFR Part 35, and occurred at medical institutions. As required by Section 208, the discussion for each event includes the date and place, nature and probable consequences, the cause or causes, and the actions taken to prevent recurrence. Each event is also being described in NUREG–0090, Vol. 31, ''Report to Congress on Abnormal Occurrences: Fiscal Year 2008.'' This report is available electronically at the NRC Web site *http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/.*

There are three major categories of events reported in this document: I. For All Licensees, II. For Commercial Nuclear Power Plant Licensees, and III. Events at Facilities Other Than Nuclear Power Plants and all Transportation Events. The full report, available on the NRC Web site, provides the specific criteria for determining when an event is an abnormal occurrence (AO) and discusses ''Other Events of Interest'' that do not meet the AO criteria but which the Commission has determined should be included in the report. The event identification number begins with ''AS'' for Agreement State AO events and ''NRC'' for NRC AO events.

I. For All Licensees

Human Exposure to Radiation From Licensed Material

During this reporting period, one event at an NRC-licensed facility and one event at an Agreement State-licensed facility were significant enough to be reported as abnormal occurrences (AOs).

AS08–01 Human Exposure to Radiation at St. Luke's Hospital in Bethlehem, Pennsylvania

Date and Place—April 11, 2008, Bethlehem, Pennsylvania.

Nature and Probable Consequences—St. Luke's Hospital (the licensee) reported that a therapeutic dose of 4,958 MBq (134 mCi) of iodine-131, for thyroid cancer treatment, resulted in a dose to an embryo/fetus of 350 mSv (35 rem). Prior to administration of iodine-131, the patient was given a pregnancy test and it yielded a negative result. Following the treatment, the patient suspected she was pregnant and returned to the hospital on April 28, 2008. Subsequent testing indicated that the patient became pregnant approximately 4–6 days following her treatment. The patient and the referring physician were informed of this event. The hospital calculated a total dose to the embryo/fetus of 350 mSv (35 rem). The hospital concluded that based on the total dose to the embryo/fetus of 350 mSv (35 rem), no immediate health effects would be experienced. On May 2, 2008, the patient met with a perinatologist and a recommendation was made to consult with a genetic counselor regarding the fetal exposure.

Cause(s)—The causes of this event were the negative pregnancy test and the patient not using a method of contraception, as advised, following the treatment.

Actions Taken To Prevent Recurrence

Licensee—The licensee is providing additional instructions to its staff to strongly emphasize to patients the risks associated with becoming pregnant following the administration of radioiodine treatments.

State—The State conducted a follow-up inspection on June 10, 2008, and did not take any enforcement action regarding this event.

* * * * *

NRC08–01 Human Exposure to Radiation at Wilford Hall Medical Center on Lackland Air Force Base in San Antonio, Texas

Date and Place—June 4, 2008, San Antonio, Texas.

Nature and Probable Consequences—Wilford Hall Medical Center, a permit holder under the United States Air Force (USAF) Master Material license, reported that a therapeutic dose of 5.55 GB (150 mCi), for post-thyroidectomy therapy to a patient, administered on June 4, 2008, resulted in a dose to an embryo/fetus of 315 mSv (31.5 rem). Two days prior to administration of the radioiodine-131, a pregnancy test was given to the patient and it yielded a negative result. Later, on June 26, 2008, the patient became aware that she was pregnant. The hospital's radiation safety staff did not become aware of the pregnancy until August 13, 2008, when the patient contacted the radiation safety staff asking about the consequences of the radioiodine ablation therapy on her embryo/fetus.

The hospital's radiation safety staff immediately conducted an investigation, in consultation with experts at the Department of Energy, and concluded that based on the total dose calculated of 315 mSv (31.5 rem) to the embryo/fetus, no immediate health effects would be experienced. The hospital estimated that the pregnancy was approximately seven days post-conception at the time of the administration and that the zygote (fertilized ovum) was in a pre-implantation state. This estimated condition is supported by the negative pregnancy test results prior to the administration. In addition, the hospital also estimated that the likelihood of childhood cancer had been increased by an estimated 1.9 percent. According to the licensee's report dated September 22, 2008, the pregnancy was progressing satisfactorily.

Cause(s)—Wilford Hall Medical Center believes that it followed its policies and standards of care. A pregnancy test does not typically have the capability to detect a pregnancy at such an early stage. The NRC special inspection is complete and the results are being evaluated for significance and potential regulatory action. The final report will be issued at the completion of the evaluation.

Actions Taken To Prevent Recurrence

Wilford Hall Medical Center—Patients will be advised that serum pregnancy tests are not capable of detecting early stage pregnancy and therefore patients will be advised to abstain from intercourse for a period of 14 days prior to treatment or utilize an effective method of contraception for a period of 30 days prior to treatment. In addition, only quantitative serum tests will be used for detecting pregnancy for patients with the physiological capacity for becoming pregnant.

Department of the Air Force—The United States Air Force (USAF) Radioisotope Committee (RIC) is performing a root-cause analysis of this event. As part of its reviews, the USAF RIC is identifying other hospitals, under its Master Materials license, and asking them to review radioiodine procedures for the past two years to determine if patients had become pregnant either before or after receiving a radioiodine procedure. The USAF RIC will also review the policies and procedures of these hospitals. In addition, the USAF RIC is arranging to send an inspector from the Air Force Inspection Agency to further assess procedures. The USAF Surgeon General issued a Notice to Airmen (NOTAM) on September 22, 2008, that outlined compliance objectives to reduce the likelihood of future occurrences. The USAF RIC is sending information to educate clinicians and support staff on the intent and implementation of the NOTAM.

NRC—NRC first learned of this incident on September 5, 2008, while conducting a routine unannounced inspection at Wilford Hall Medical Center. On September 9, 2008, NRC initiated a special inspection team to review this event and obtained the services of a medical consultant. NRC's medical consultant corroborated the hospital's total dose estimate to the fetus, with an estimated total dose of 325 mSv (32.5 rem). NRC's medical consultant also concurred with the hospital's assessment of the probable health effects to the fetus.

* * * * *

II. Commercial Nuclear Power Plant Licensees

During this reporting period, no events at commercial nuclear power plants in the United States were significant enough to be reported as AOs.

* * * * *

III. Events at Facilities Other Than Nuclear Power Plants and All Transportation Events

Medical Licensees

During this reporting period, four events at NRC-licensed or regulated facilities and four events at Agreement State-licensed facilities were significant enough to be reported as AOs.

NRC08–02 Medical Events at the Department of Veterans Affairs in Philadelphia, Pennsylvania

Date and Place—February 2002 to May 2008, Philadelphia, Pennsylvania.

Nature and Probable Consequences—The VA Medical Center—Philadelphia reported that 92 medical events involving prostate brachytherapy occurred between February 2002 and May 2008. Each patient was prescribed 160 Gy (16,000 rad) using permanent iodine-125 seeds. The licensee determined that 57 of the 92 patients received less than 80 percent of the prescribed dose to the prostate. Thirty-

five patients received excessive doses to other organs. Of these 35 patients, 25 patients received a dose in excess of 100 Gy (10,000 rad) to the rectum due to misplaced iodine-125 seeds. Each patient and the referring physicians were notified of these events. The VA Medical Center—Philadelphia is reviewing possible health effects on the patients. The circumstances for each patient are being evaluated to determine if follow-up medical care is needed.

The NRC-contracted medical consultant reviewed a selected number of the cases and agreed with the licensee's dose analysis. However, in one overdose case, the patient experienced rectal bleeding of the colon and laboratory results indicated ulcerative colitis. The NRC-contracted medical consultant and the licensee agreed that the increased dose to the colon could be a contributing factor to the rectal bleeding.

Cause(s)—The VA Medical Center—Philadelphia identified three root causes as a result of these events in its *Report of Administrative Board of Investigation* dated September 5, 2008: (1) No corrective action was taken when post-implant dosimetry was performed and low doses were observed, (2) inadequate supervision by the physician/authorized users and (3) post-treatment plans were not performed on patients due to computer interface problems. In addition, two factors contributed to these events: (1) Internal procedures were not followed and (2) the succession of minor technical errors that stemmed from a misperception that other team members performed safety checks.

Actions Taken To Prevent Recurrence

Licensee—Corrective actions taken by the VA Medical Center—Philadelphia included: (1) The prostate brachytherapy program has been suspended until a standardized brachytherapy program is established and implemented; (2) a physician and medical physics consultant, who are experts in performing prostate implants, were hired to evaluate the prostate implant program; and (3) several key staff directly involved in the prostate brachytherapy procedures are no longer employed by the VA Medical Center—Philadelphia.

NRC—The NRC Region III Office conducted a reactive inspection on July 23–25, 2008. Based on the results of this inspection and the high number of medical events identified, NRC conducted a special inspection on September 9–12, 2008. On October 14, 2008, NRC issued a confirmatory action letter (CAL) to the Department of Veterans Affairs (DVA) National Health Physics Program due to the multiple medical events involving permanent prostate brachytherapy treatments. The CAL documents the commitments made by the DVA to identify and address the problems that have led to medical errors and to prevent their recurrence. NRC will verify, through inspections, that the items in the CAL have been successfully completed. Enforcement action is pending.

* * * * *

NRC08–03 Medical Event at Karmanos Cancer Center in Detroit, Michigan

Date and Place—October 24, 2007, Detroit, Michigan.

Nature and Probable Consequences—Karmanos Cancer Center reported that a medical event occurred associated with its gamma stereotactic radiosurgery unit (gamma knife). A patient being treated for a metastatic brain tumor was scheduled to receive 18 Gy (1,800 rad) to the lesion in the right cerebella area of the brain but received 18 Gy (1,800 rad) to an unintended area adjacent to the tumor. An error in the setup of the magnetic resonance imaging (MRI) unit caused the MRI scan to be reversed (i.e., the image of the right side of the head was on the left side and vice versa). The patient and the referring physician were informed of this event.

Prior to the treatment, the medical physicist, authorized user physician, and neurosurgeon reviewed the MRI scan and treatment plan but failed to recognize the reversed MRI images. The reversed MRI images were scanned into the gamma knife treatment planning computer, and a treatment plan was generated based on the reversed MRI images. The authorized user physician and neurosurgeon reviewed and approved the treatment plan generated from the reversed MRI images, and again the reversed MRI images were not recognized.

The NRC staff conducted a reactive onsite inspection on October 29, 2007. The NRC-contracted medical consultant reviewed the case and agreed with the licensee's analysis, stating that no significant adverse health effect to the patient is expected.

Cause(s)—The medical event was caused by the MRI technologist who inadvertently performed the MRI scans in the ''caudal'' mode (from the jaw to the top of the head) rather than the ''cranial'' mode (from the top of the head to the jaw). This change in device mode caused the MRI images to be reversed.

Actions Taken To Prevent Recurrence

Licensee—The licensee initiated several corrective actions to reduce the likelihood of recurrence of a similar event. Specifically, those corrective actions included (1) weekly meetings with the physics staff to discuss technical issues, focusing on the importance of good communication and (2) new written procedures and policies for the MRI staff and gamma knife facility staff that require dual verification of the various steps in the process to ensure that the correct treatment plan is generated from the MRI images.

NRC—On January 10, 2008, NRC issued a Notice of Violation related to this event.

* * * * *

AS08–02 Medical Event at University of Mississippi Medical Center in Jackson, Mississippi

Date and Place—December 12 – 17, 2007, Jackson, Mississippi.

Nature and Probable Consequences—University of Mississippi Medical Center (the licensee) reported that a medical event occurred during a high dose-rate (HDR) treatment for cervical cancer using an iridium-192 source with an activity of 185 GBq (5.0 Ci). The authorized user physician prescribed five fractionated doses of 600 cGy (600 rad) each to be administered using tandem and ovoid applicators. The licensee calculated that during the first, second, and third fractionated treatments, the patient received a total dose of 470 cGy (470 rad) to the treatment area and 1,300 cGy (1,300 rad) to the vaginal region inferior to the treatment area. The patient and the referring physician were informed of this event. The licensee concluded that no significant adverse health effect to the patient is expected.

Cause(s)—The medical event was caused by human error due to the incorrect catheter length entered into the treatment planning system. The incorrect value of 128 cm was entered as the length instead of 120 cm, resulting in the 86 mm displacement. An HDR service technician identified the error in the treatment planning system on March 25, 2008.

Actions Taken To Prevent Recurrence

Licensee—The licensee committed to taking several corrective actions as a result of the medical event, including (1) Verification of the length of all disposal catheters and checking the integrity of the catheters prior to treatment, (2) placing an order for and use of a single set of reusable catheters

for HDR cervical cancer treatments, (3) the treatment plan and catheter measurement will be independently checked prior to treatment, and (4) review and modification, if necessary, of the quality assurance plan to ensure accuracy.

State—The State cited the licensee with two violations for failing to verify the treatment plan.

* * * * *

AS08–03 Medical Event at Southwest Volusia Healthcare Corporation in Orange City, Florida

Date and Place—December 28, 2007, Orange City, Florida.

Nature and Probable Consequences—Southwest Volusia Healthcare Corporation (the licensee, doing business as Florida Hospital Fish Memorial) reported that a patient received 81.4 MBq (2.2 mCi) of iodine-131 for a whole body scan, instead of the intended iodine-123 for a thyroid uptake scan. The administration of 81.4 MBq (2.2 mCi) of iodine-131 resulted in the patient receiving a dose of 17.6 Gy (1,760 rad) to the thyroid and a whole body effective dose equivalent of 1.034 cGy (1.034 rad). The authorized user physician ordered an iodine thyroid uptake scan procedure, but did not specify the isotope in the written directive. The licensee uses iodine-123 for thyroid uptake scan procedures and iodine-131 for whole body scan procedures. On December 17, 2007, the patient received an iodine-131 whole body scan. The patient and the referring physician were informed of this event. The licensee concluded that no significant adverse health effect to the patient is expected.

Cause(s)—The licensee identified four causes of the medical event: (1) The incorrect examination was scheduled in their Radiology Information System, (2) the patient had a prescription from the ordering physician, but did not make it available for verification, (3) the isotope for the incorrect exam was ordered without verifying the prescription, and (4) the technologist involved in the administration did not recognize the error when the written directive was presented.

Actions Taken To Prevent Recurrence

Licensee—The licensee implemented corrective actions by providing counseling and re-training to the hospital personnel involved in the medical event and notified hospital personnel that iodine-131 and iodine-123 studies must be verified prior to scheduling patients for these types of procedures. In addition, the technologists have been instructed to visually verify the authorized user physician's order on the written directive before ordering the radioisotope and the technologist and radiologist will review the written directive prior to patient administration.

State—The State conducted an investigation and reviewed the licensee's corrective actions and found the corrective actions to be adequate.

* * * * *

AS08–04 Medical Event at Southern Baptist Hospital of Florida in Jacksonville, Florida

Date and Place—January 24, 2008, Jacksonville, Florida.

Nature and Probable Consequences—Southern Baptist Hospital of Florida (the licensee, doing business as Baptist Medical Center) reported that a patient received 173.9 MBq (4.7 mCi) of iodine-131 for an uptake scan, instead of the intended iodine-123 for the same procedure. The administration of 173.9 MBq (4.7 mCi) of iodine-131 resulted in the patient receiving a dose of 61 Gy (6,100 rad) to the thyroid and a whole body effective dose equivalent of 180 cGy (180 rad). An authorized user physician gave a verbal order to a nurse, who wrote the order for an iodine-123 uptake scan. The nurse incorrectly scheduled an iodine-131 uptake scan and the authorized user physician did not review the order. On January 16, 2008, the authorized user physician reviewed the results of the iodine-131 uptake scan and identified that the wrong isotope had been used in the procedure. The patient and the referring physician were informed of this event. The licensee concluded that no significant adverse health effect to the patient is expected.

Cause(s)—The cause of the medical event was the authorized user physician's failure to write a written directive and failure to review the order for the procedure.

Actions Taken To Prevent Recurrence

Licensee—The licensee implemented corrective actions by rewriting its procedures such that all written directives will be completed and reviewed by the authorized user physician prior to the administration to patients.

State—The State conducted an investigation and reviewed the licensee's corrective actions and found the corrective actions to be adequate.

* * * * *

NRC08–04 Medical Event at Reid Hospital and Health Care Services in Richmond, Indiana

Date and Place—February 27, 2008, Richmond, Indiana.

Nature and Probable Consequences—Reid Hospital and Health Care Services reported that a medical event occurred during a brachytherapy seed implant procedure to treat prostate cancer. The written directive prescribed a total dose of 110 Gy (11,000 rad) to the patient's prostate using 62 iodine-125 seeds as permanent implants. The licensee calculated that the patient received less than 15 Gy (1,500 rad) to the prostate and the region of the patient's perineum, where the seeds were placed, received a dose of 55 Gy (5,500 rad). The patient and the referring physician were informed of this event.

According to the licensee, the base of the prostate was misidentified through ultrasound, causing 37 of the prescribed 62 seeds to be placed approximately 1 cm to 2 cm below the prostate in the perineum. When it was recognized that the seeds were not in the prostate, the procedure was halted. The licensee physicians stated that the patient may develop possible complications, including fibrosis and necrosis of the tissue in the perineum, where the seeds were implanted.

The NRC-contracted medical consultant agreed with the licensee's dose estimate and stated it was unlikely that the patient would experience radiation-induced rectal wall necrosis or soft-tissue necrosis below the prostate in the perineum area, but that it was possible to have delayed fibrosis of some areas of the genital tract. The NRC-contracted medical consultant further stated that because no tissue necrosis had occurred one month after the medical event, tissue necrosis was very unlikely to occur.

Cause(s)—The licensee determined the root cause of the medical event was the misidentification of the base of the prostate. Specifically, the prostate/bladder interface was not identified properly using the ultrasound due to poor image quality. As a result, the needle used to implant the seeds was not located in the prostate during the implantation.

Actions Taken To Prevent Recurrence

Licensee—The licensee's corrective actions to prevent recurrence included revising its procedure for prostate seed implants to require that the needle location in the prostate be verified by x-ray imaging at the beginning of the procedure, prior to any seeds being implanted, and halting the procedure if

the location of the needle in the prostate cannot be verified with certainty.

NRC—On July 11, 2008, NRC issued a Notice of Violation related to this event.

* * * * *

NRC08–05 Medical Event at Bon Secours Virginia Health Source in Midlothian, Virginia

Date and Place—May 1, 2008, Midlothian, Virginia.

Nature and Probable Consequences—Bon Secours Virginia Health Source reported that a medical event occurred during a high dose-rate (HDR) treatment for breast cancer using an iridium-192 source with an activity of 165.4 GBq (4.47 Ci). The authorized user physician prescribed 10 fractions of 340 cGy (340 rad) each to be administered using a balloon catheter technique. The licensee calculated that a portion of the target volume received a dose in the range of 86 cGy (86 rad). In addition, a small volume of skin, at the catheter entrance into the patient, received a dose in the range of 1,142 cGy (1,142 rad). The patient and the referring physician were informed of this event.

During the check source run for the first fraction, an HDR alarm interrupted the run. Rather than investigate the cause of the alarm, the physicist concluded that a 2 mm error had been made in the measurement of the catheter length and the alarm occurred because the check source hit the end of the catheter. The physicist adjusted the catheter length value at the treatment console from 1300 mm to 1280 mm, believing this to be a change of 2 mm, and the treatment was administered. Immediately following the first treatment, it was determined that the original catheter length measurement of 1300 mm was correct and the length change made at the treatment console was 20 mm rather than 2 mm. As a result, the source dwell positions were 20 mm from the intended locations and were closer than intended to the skin entry point of the HDR catheter.

Subsequent HDR treatment fractions were administered as intended, with adjustments to the final two treatment fractions to assure that all areas of the target volume received an adequate dose over the course of the treatment. An NRC medical consultant concluded that no significant adverse health effect to the patient is expected.

Cause(s)—The cause of the medical event was human error in (1) failing to investigate the cause of the HDR alarm and (2) adjusting the catheter length value at the console by 20 mm instead of the intended 2 mm.

Actions Taken To Prevent Recurrence

Licensee—The licensee's corrective actions taken to prevent recurrence included updating procedures to define steps that will be taken to resolve HDR device alarms.

NRC—NRC performed a reactive inspection at the facility and issued a Notice of Violation for three violations of regulatory requirements on October 10, 2008.

* * * * *

AS08–05 Medical Event at Lehigh Valley Hospital in Allentown, Pennsylvania

Date and Place—July 17, 2008, Allentown, Pennsylvania.

Nature and Probable Consequences—Lehigh Valley Hospital (the licensee) reported that a patient was prescribed a dose of 740 MBq (20 mCi) of iodine-131, for treatment of a thyroid condition, but instead was administered 2,775 MBq (75 mCi). The licensee discovered the event within an hour of the administration and gave the patient 130 mg of potassium iodide, a blocking agent, to prevent the uptake of iodine-131 in the thyroid. As a result of the administration, next day measurements indicated that the patient had a 74 MBq (2 mCi) uptake to the thyroid and 370 MBq (10 mCi) whole body retention, resulting in an approximate thyroid dose of 26 Gy (2,600 rad) and whole body effective dose equivalent of 8.7 cGy (8.7 rad). The patient and the referring physician were informed of this event. The licensee determined that as a result of giving the patient 130 mg of potassium iodide, no significant adverse health effect to the patient is expected.

Cause(s)—The cause of the medical event was human error because the technologist accidentally switched the doses between two patients.

Actions Taken To Prevent Recurrence

Licensee—The licensee implemented corrective measures by modifying current procedures involving the administration of radiopharmaceuticals.

State—The State conducted a follow-up inspection on August 21, 2008, to ensure that the licensee's actions taken to prevent recurrence had been implemented and issued a Notice of Violation.

Dated at Rockville, Maryland, this 29th day of May 2009.

For the U.S. Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. E9–13300 Filed 6–5–09; 8:45 am]

BILLING CODE 7590–01–P

SMALL BUSINESS ADMINISTRATION

Business Loan Program Temporary Eliminations/Reductions in Fees

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Notice and request for comments.

SUMMARY: This Notice formalizes the implementation of Section 501 of the American Recovery and Reinvestment Act of 2009. Section 501 authorizes SBA to temporarily reduce or eliminate certain SBA business loan program fees in the 7(a) Loan Program and the 504 Certified Development Company Program. These fee changes are intended to promote economic recovery by providing economic relief to America's small businesses and encouraging lenders to make small business loans. While these changes have been implemented and are under-way, this Notice contains the key provisions of SBA's implementation of Section 501 in formal guidance and requests public comment.

DATES: *Effective Date:* This Notice is effective June 8, 2009.

Applicability Dates: This Notice applies to 7(a) loans approved by SBA or issued loan numbers for delegated lender loans by SBA, on or after February 17, 2009 and to 504 loans approved by SBA, pending approval at SBA, or issued loan numbers for delegated CDC loans by SBA, on or after February 17, 2009, until funds appropriated for Section 501 are exhausted.

Comment Date: Comments must be received on or before July 8, 2009.

ADDRESSES: You may submit comments, identified by SBA docket number SBA–2009–0001 by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Recovery Act Comments—Office of Financial Assistance, U.S. Small Business Administration, Suite 8300, 409 Third Street, SW., Washington, DC 20416.
- *Hand Delivery/Courier:* Grady Hedgespeth, Director, Office of Financial Assistance, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

SBA will post all comments on *www.regulations.gov.* If you wish to submit confidential business information (CBI) as defined in the User Notice at *www.regulations.gov,* please submit the information to Grady Hedgespeth, Director, Office of Financial Assistance, U.S. Small

Business Administration, 409 Third Street, SW., Washington, DC 20416, or send an e-mail to *recovery.act@sba.gov.* Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make the final determination whether it will publish the information.

FOR FURTHER INFORMATION CONTACT: The SBA district office nearest you; the list of offices can be found at *http://www.sba.gov/localresources/index.html.*

SUPPLEMENTARY INFORMATION:

I. Background Information

America's financial crisis has created adverse conditions that are affecting small businesses, including a lack of liquidity in the lending system, a reluctance of many lenders to extend new loans, tightened credit standards, weaker finances at small businesses, and uncertainty about taking on new debt on the part of many entrepreneurs.

As a result, lending by SBA program participants has significantly declined and SBA's ability to ensure small business access to capital has been limited.

On February 17, 2009, the President signed the American Recovery and Reinvestment Act of 2009 (the Recovery Act) (Pub. L. 111–5, 123 Stat. 115 (February 17, 2009)) to promote economic recovery by preserving and creating jobs, and to assist those most affected by the severe economic conditions facing the nation. The SBA received funding and authority through the Recovery Act to modify existing loan programs and establish new loan programs to significantly stimulate small business lending. It is expected that SBA's actions will increase access to affordable credit for small businesses through the Agency's 7(a) and 504 loan programs, unfreeze the secondary market for SBA guaranteed loans, help small businesses struggling with existing debt, and allow greater investment in high-growth small businesses.

To this end, Section 501 of the Recovery Act provides for the temporary reduction or elimination of certain loan fees in the 7(a) and 504 loan guarantee programs. The Recovery Act contemplates that these fee eliminations/reductions will flow to both borrowers and SBA's lending partners, consistent with an order of priority set forth in the Recovery Act. Relief from some borrower fees will make SBA guaranteed loans more affordable for small businesses hesitant to seek a loan during these difficult economic times. Relief from some lender fees will provide incentives to lenders to expand their SBA lending and make loans to America's small businesses with confidence.

II. Comments

The intent of Section 501 of the Recovery Act is that SBA provide relief to America's small businesses effective immediately. This along with the current economic conditions provided good cause for SBA moving forward prior to receiving public comments. Although Section 501 has been implemented and this Notice is effective immediately, comments are solicited from interested members of the public on all aspects of the Notice including the formal guidance set forth in the section below. These comments must be submitted on or before July 8, 2009. The SBA will consider these comments and the need for making any revisions as a result of these comments.

III. Business Loan Temporary Elimination/Reduction in Fees

Overview

On February 17, 2009, President Obama signed the American Recovery and Reinvestment Act of 2009 (the Recovery Act). (Pub. L. 111–5, 123 Stat. 115). The Recovery Act was enacted to promote economic recovery by preserving and creating jobs, and assisting those most impacted by the severe economic conditions facing the nation. Among the SBA provisions contained in the Recovery Act are provisions authorizing SBA to temporarily eliminate or reduce certain loan fees for borrowers and/or lenders in SBA's 7(a) guaranteed loan program and the 504 Certified Development Company (CDC) loan program. The following outlines the key guidance of the Recovery Act Section 501 as implemented.

Applicability Date of Fee Relief Provisions

Section 501 fee relief applies to 7(a) loan applications with a term greater than one year that are approved, or issued loan numbers for delegated lender loans, by SBA on or after February 17, 2009. This includes delegated authority loans, including but not limited to, SBA Express Loans. For SBA's 504 program, the fee relief applies to loan applications approved by SBA, loans issued loan numbers for delegated CDC loans by SBA, and loans pending approval at SBA, on or after February 17, 2009. The Recovery Act provides that fee relief will sunset on the earlier of September 30, 2010, or such date as appropriated funds are exhausted. Depending on the loan volume, SBA estimates that it will be able to eliminate the fees on loans approved through approximately December 31, 2009. SBA will notify the public when appropriated funds are exhausted.

7(a) Program Fees

Section 501 of the Recovery Act authorizes SBA to temporarily eliminate or reduce certain 7(a) program loan fees, including all Small Business Act Section 7(a)(18)(A) fees (guaranty fees) to the extent such cost is offset by appropriations. Accordingly, SBA is eliminating such Section 7(a)(18)(A) guaranty fees, including clause (i) through (iv) fees, until funds set aside for this purpose are exhausted. While Section 7(a)(18)(A)(iv) fees are not specifically enumerated in the funding priority provision of Recovery Act Section 501(c), SBA is eliminating this fee consistent with its inclusion in Recovery Act Section 501(a) and with subsection 501(c) priority on borrower relief. With the elimination of Section 7(a)(18)(A) guaranty fees, there will be no guaranty fees that a lender might retain under 13 CFR 120.220(d) for loans with a maturity of more than twelve months where the total loan amount is no more than $150,000. The Recovery Act, however, does not cover SBA's ¼ point guaranty fee for loans with maturities of 12 months or less. 13 CFR 120.220(a). Therefore, the ¼ point fee for loans with maturities of 12 months or less is still effective. The fee relief provisions in this Notice temporarily supersede any provisions that conflict in 13 CFR 120.220.

While the Recovery Act also allows for the potential elimination/reduction of Section 7(a)(23)(A) annual fees which are paid by the lender, SBA is unable to reduce these fees within the constraints of the Recovery Act. This is due to the Recovery Act's 7(a) loan program provisions that establish a clear priority for borrower relief. In addition, the Recovery Act fee elimination/reduction provisions are only available to the extent offset by appropriations. Finally, SBA in consultation with OMB determined that there was no periodic allocation methodology between the 7(a) fees that could be implemented without significant operational challenges. These challenges would be further complicated by the difficulty differentiating between small and large lenders on an ongoing basis as required by the statutory provision for ''waterfall of benefits.''

504 Program Fees

Section 501 of the Recovery Act also authorizes SBA to temporarily eliminate two 504 program fees: (i) Small Business Investment Act Section 503(d)(2) fees (Third-Party Participation Fees), codified at 13 CFR 120.972(a) and (ii) 13 CFR Section 120.971(a)(1) fees (CDC Processing Fees). To implement this provision, SBA is eliminating these two 504 program fees. Consistent with the Recovery Act's temporary elimination of CDC Processing Fees and until further notice, CDCs will no longer be allowed to collect processing fee deposits from small business borrowers that would have gone towards payment of the CDC Processing Fee upon loan approval on or after February 17, 2009 under 13 CFR 120.935. However, the Recovery Act provides for SBA reimbursement to CDCs for the waived CDC Processing Fees. Therefore, SBA will pay CDCs two-thirds of the estimated CDC Processing Fee at the time of loan approval and the remainder upon funding of the loan. The CDC Processing Fee reimbursed will be equal to 1.5% of net debenture proceeds for which a CDC does not collect the CDC Processing Fee. SBA, however, will not reimburse CDCs the CDC Processing Fee if the CDC had collected such a fee from the borrower on a prior 504 loan approved before February 17, 2009 and cancelled before disbursement. Fee relief provisions in this Notice temporarily supersede any provisions that conflict in 13 CFR 120.971 and 120.972.

Fee Refunds

If fees have already been paid to SBA on eligible loans, SBA will refund to lenders the eligible fees. If borrowers have already paid lenders for the fees, lenders must refund the borrowers from the SBA refund within 14 days of the date that SBA forwards the refund to lender's account or the date of the SBA refund check. If, however, lenders have received the refunds before the date of publication of the Notice, lenders must refund the fees to the borrowers within 14 days from the publication date of this Notice. In addition, if lender retained any fees under 13 CFR 120.220(d) (loans with a maturity of more than 12 months that are $150,000 or less) on an eligible loan, lender must similarly return those fees to borrowers. Lenders must document borrower receipt of the refund and be prepared to produce such documentation to SBA upon request. Failure to produce such documentation may result in SBA taking any action available under law. SBA has already processed most refunds. The Agency moved quickly to reimburse all fees waived as a result of the Recovery Act ensuring that it could adequately modify systems and account for and report on these funds.

Conversion of Short-Term Loans Approved After 2/17/09 to Long-Term Loans

If a borrower seeks to convert a short-term loan approved after February 17, 2009 to a Recovery Act eligible long-term loan, the borrower will have to cancel that loan and resubmit the loan as a new long-term loan to be eligible for the Recovery Act guaranty fee reduction. In these cases, SBA will not be able to refund the original short-term loan ¼ point fee.

Loan Cancellations for Approvals Prior to 2/17/09

SBA will not allow loans approved prior to 2/17/09 to be cancelled and then resubmitted as a new loan for approval under the Recovery Act to avoid fees, unless the resubmitted loan is not a replacement for the original loan, as determined by SBA on a case by case basis. The intention of the fee elimination/reduction is to stimulate new lending. A loan cancelled and then resubmitted to avoid fees does not stimulate new lending and, therefore, is ineligible for Recovery Act treatment. Requests for such case by case consideration must be submitted by the lender to the Standard 7(a) Loan Guaranty Processing Center in Citrus Heights, California. The request will be reviewed and a recommendation forwarded to the Director/Office of Financial Assistance for approval.

In making a case by case determination on resubmitted loans, the existence of one or more of the following factors will make it more likely that SBA will approve the request: (i) The loan was cancelled for reasons other than the passage of the Recovery Act (*e.g.,* the loan was cancelled because the location for the new business was not available, subsequently another location became available and a new loan was requested); (ii) the new loan is for a different purpose (*e.g.,* the original loan was for working capital but the new loan is for the acquisition of real estate); (iii) the new loan is likely to achieve additional economic stimulus (*e.g.,* the previous loan would have preserved jobs but the new loan will also create new jobs); or (iv) the new loan would not be made but for the provisions of the Recovery Act (*e.g.,* the loan was cancelled because the borrower failed to meet a key provision (*e.g.,* appraisal value) in the original loan authorization and, therefore, the lender would not make the loan now but for the higher guaranty level). Based on past cancellation experience in SBA's loan programs, SBA expects that only a limited number of borrowers with cancelled/resubmitted loans will meet the criteria for a new loan with reduced fees and/or a higher guaranty.

In general, changes to loans approved prior to February 17, 2009, including loan increases, will be processed as changes to the original loan in accordance with SBA's standard practice, and loan fees will be assessed under the rules in effect at the original approval date. For 504 loans approved prior to 2/17/09 that seek to add allowable refinancing under the Recovery Act, a servicing provision will be created that will accommodate this modification without the need to cancel the original loan.

Funding

Under the Recovery Act, Congress appropriated $375,000,000 for reimbursements, loan subsidies and loan modifications for 7(a) and 504 loans as described in Section 501 of the Recovery Act. In addition, these funds also support the higher guarantee levels (up to 90% on qualifying 7(a) loans) in Section 502 of the Recovery Act. The Recovery Act does not provide an allocation of the funds between the 7(a) and 504 programs. SBA has decided to allocate the funds so as to result in fee eliminations for roughly the same period of time for the two programs. This allocation will support a program level of approximately $8.7 billion for the 7(a) program and approximately $3.6 billion for the 504 program with fee elimination/reduction under the Act.

Use of Proceeds Restriction

Finally, the Recovery Act provides that none of the funds appropriated or otherwise made available in the Recovery Act may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool. For otherwise eligible loans to these small businesses or for these uses, lenders and CDCs may continue to submit applications in accordance with SOP 50 10 5(A); however, all regular fees will apply. For Recovery Act loan guaranties, it will be the responsibility of the lender or CDC to document in the credit memorandum that the borrower's use of proceeds does not include a restricted use or, if there is a restricted use component, the lender must document the other resources that the borrower has obtained to pay the costs allocable to the restricted use component.

Lenders and CDCs also will be expected to certify on the applicable eligibility checklist that no loan proceeds will be used for a restricted use. In addition, on 7(a) Recovery Act loan guaranties it will be the responsibility of the borrower to certify that it will not use any working capital loan proceeds for any restricted use. For all Recovery Act loan guaranties for the construction, acquisition or renovation of any business that has a restricted use, it will be the responsibility of the borrower to certify that it has obtained alternate funding which may come from the borrower's equity injection to pay the costs reasonably and in good faith estimated to be allocable to the restricted use. Failure by a lender to accurately identify a restricted use for a Recovery Act loan and remit appropriate fees within 90 days of loan approval or within 90 days of publication of this Notice, whichever is later, may result in SBA's denial of liability on the loan. Please refer to SBA Policy Notice 5000–1105 for further guidance on restricted uses of Recovery Act loan proceeds.

For 7(a) loans, the eligibility questionnaire and checklists for the Standard 7(a), Small/Rural Lender Advantage, PLP, SBA Express and Pilot Loan Programs have been modified to include an additional statement that, for loans made under the Recovery Act, no proceeds will be used for a restricted use. (The Standard 7(a) Eligibility Questionnaire can be found at *http://www.sba.gov/aboutsba/sbaprograms/elending/lgpc/forms/index.html.* The Small/Rural Lender Advantage (S/RLA) eligibility checklist (SBA Form 2301–C) can be found at *http://www.sba.gov/tools/Forms/smallbusinessforms/fsforms/index.html.*

The PLP Eligibility Checklist can be found at *http://www.sba.gov/idc/groups/public/documents/sba_program_office/bank_plpchcklist.pdf.* The SBA Express and Pilot Loan Program checklists (SBA Form 1920SX, Part C) can be found at *http://www.sba.gov/tools/Forms/smallbusinessforms/fsforms/index.html.*) In addition, for eligibility authorized SBA Express loans, SBA Form 2238 has been modified to include an additional statement that, for loans made under the Recovery Act, no proceeds will be used for a restricted use. (SBA Form 2238, SBA Express/Patriot Express Guarantee Request (Eligibility Authorized) can be found at *http://www.sba.gov/idc/groups/public/documents/sba_homepage/sba_forms_2238.pdf.*)

For 504 loans, the 504 and PCLP eligibility checklists have been modified to include an additional statement that, for loans made under the Recovery Act, no proceeds will be used for a restricted use. (The 504 Eligibility Checklist can be found at *http://www.sba.gov/idc/groups/public/documents/sba_program_office/bank_504checklist_submission.pdf.* The PCLP Eligibility Information (Form 2234) can be found at *http://www.sba.gov/idc/groups/public/documents/sba_program_office/bank_pclpchecklist2234c.doc.*)

Additional Requirements

All other provisions of the Small Business Act and the Small Business Investment Act applicable to the 7(a) and 504 programs and the regulations promulgated thereunder that are not superseded by the relevant provisions of the Recovery Act will continue to apply to loans made under the Recovery Act.

Lenders, CDCs, and/or borrowers may be subject to additional reporting or recordkeeping requirements in connection with loans under the Recovery Act. Lenders completing Form 1086 for the sale of Recovery Act loans on the secondary market are advised to use the loan approval date for the guaranty fee ''paid on'' date.

SBA may provide further guidance, if needed, through SBA notices published on SBA's Web site, *www.sba.gov.*

Authority: Public Law 111–5, Div. A, Title V, Section 501, 123 Stat. 115.

Karen G. Mills,

Administrator.

[FR Doc. E9–13306 Filed 6–5–09; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Business Loan Program Temporary Increased Guaranty Percentage

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Notice and request for comments.

SUMMARY: This Notice formalizes the implementation of Section 502 of the American Recovery and Reinvestment Act of 2009. Section 502 temporarily permits SBA to guarantee up to 90 percent of qualifying small business loans. The increase in maximum guaranty percentage is intended to promote economic recovery by encouraging lenders to make small business loans by reducing their exposure to risk. While these changes have been implemented and are under way, this Notice contains the key provisions of SBA's implementation of Section 502 in formal guidance and requests public comment.

DATES: *Effective Date:* This Notice is effective June 8, 2009.

Applicability Date: This Notice applies to 7(a) loan applications (or requests for loan numbers submitted through delegated lender processes, except SBA Express) received by SBA on or after March 16, 2009 until funds made available for this purpose are exhausted.

Comment Date: Comments must be received on or before July 8, 2009.

ADDRESSES: You may submit comments, identified by number SBA–2009–0004 by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Recovery Act Comments—Office of Financial Assistance, U.S. Small Business Administration, 409 Third Street, SW., Suite 8300, Washington, DC 20416.
- *Hand Delivery/Courier:* Grady Hedgespeth, Director, Office of Financial Assistance, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

SBA will post all comments on *www.regulations.gov.* If you wish to submit confidential business information (CBI) as defined in the User Notice at *www.regulations.gov*, please submit the information to Grady Hedgespeth, Director, Office of Financial Assistance, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416, or send an e-mail to *recovery.act@sba.gov.* Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make the final determination whether it will publish the information.

FOR FURTHER INFORMATION CONTACT: The SBA district office nearest you; the list of offices can be found at *http://www.sba.gov/localresources/index.html.*

SUPPLEMENTARY INFORMATION:

I. Background Information

America's financial crisis has created adverse conditions that are affecting small businesses, including a lack of liquidity in the lending system, a reluctance of many lenders to extend new loans, tightened credit standards, weaker finances at small businesses, and uncertainty about taking on new debt on the part of many entrepreneurs. As a result, lending by SBA program participants has significantly declined and SBA's ability to ensure small

business access to capital has been limited.

On February 17, 2009, the President signed the American Recovery and Reinvestment Act of 2009 (the ''Recovery Act'') (Pub. L. 111–5, 123 Stat. 115) to promote economic recovery by preserving and creating jobs, and to assist those most affected by the severe economic conditions facing the nation. The SBA received funding and authority through the Recovery Act to modify existing loan programs and establish new loan programs to significantly stimulate small business lending. It is expected that SBA's actions will increase access to affordable credit for small businesses through the Agency's 7(a) and 504 loan programs, unfreeze the secondary market for SBA guaranteed loans, help small businesses struggling with existing debt, and allow greater investment in high-growth small businesses.

To this end, Section 502 of the Recovery Act temporarily permits SBA to guarantee up to 90 percent of 7(a) loans, except for loans made under the SBA Express program. SBA Express loans will continue to have a maximum guaranty of 50 percent. Providing a higher guaranty will provide an incentive to lenders to expand their SBA lending and make loans to America's small businesses with confidence. A more detailed discussion of Section 502 of the Recovery Act follows.

II. Comments

The intent of the Recovery Act is that SBA provide relief to America's small businesses as quickly and effectively as possible. This along with the current economic conditions provided good cause for SBA moving forward prior to receiving public comments. Although Section 502 has been implemented and this Notice is effective immediately, comments are solicited from interested members of the public on all aspects of the Notice including the formal guidance set forth in the section below. These comments must be submitted on or before July 8, 2009. The SBA will consider these comments and the need for making any revisions as a result of these comments.

III. Business Loan Temporary Increase in Maximum Guaranty Percentage

Overview

The Recovery Act was enacted to promote economic recovery by preserving and creating jobs, and assisting those most impacted by the severe economic conditions facing the nation. Among the SBA provisions contained in the Recovery Act are provisions authorizing SBA to temporarily permit an increase in the maximum guaranty percentage of up to 90 percent on qualifying small business loans. The following outlines the key guidance of section 502 of the Recovery Act as implemented.

Applicability Date of the Increase in Maximum Guaranty Percentage

Lenders may request the increase in the maximum guaranty percentage of up to 90 percent for qualifying small business loan applications (or requests for loan numbers submitted through delegated lender processes, except SBA Express) received by SBA on or after March 16, 2009. The Recovery Act provides that the increase in the maximum guaranty percentage will sunset on the earlier of February 17, 2010 or such date as funds made available for this purpose are exhausted. Depending on loan volume in the 7(a) program, SBA estimates that the increased guaranty percentage will be available through approximately December 31, 2009. SBA will notify the public when funds made available for this purpose are exhausted. The increase in the maximum guaranty percentage of up to 90 percent provided in this Notice temporarily supersedes any provision that conflicts in 13 CFR 120.210.

Qualifying Small Business Loans

The Recovery Act defines a ''qualifying small business loan'' as ''any loan to a small business concern pursuant to section 7(a) of the Small Business Act (15 U.S.C. 636) or title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 and following) except for such loans made under section 7(a)(31).'' (Loans made under section 7(a)(31) of the Small Business Act are loans made under the SBA Express program and because these loans are excluded from guarantee increases under the Recovery Act, they will continue to have a maximum guaranty of 50 percent.) With the exception of loans made under the SBA Express Program, SBA will consider any 7(a) loan, including Pilot Loan Program loans made under the Patriot Express, Community Express, Export Express and Gulf Opportunity (GO) Loan programs, to be a qualifying small business loan.

Qualified Borrower

The Recovery Act also defines the term ''Qualified Borrower.'' The Recovery Act states that a loan guarantee may not be made to a small business concern ''if an individual who is an alien unlawfully present in the United States (A) has an ownership interest in that concern; or (B) has an ownership interest in another concern that itself has an ownership interest in that concern.'' (Section 502(c)(1).) SBA currently has a process in place to verify that an alien with ownership interest in a small business applicant is lawfully in the United States. This process is set forth in SBA's Standard Operating Procedure (SOP) 50 10 5(A), Subpart B, Chapter 2. (SBA's SOP 50 10 5(A) can be found at *http://www.sba.gov/aboutsba/sbaprograms/elending/reg/index.html.*)

In addition, the eligibility questionnaire and checklists for the Standard 7(a), Small/Rural Lender Advantage (S/RLA), Preferred Lender Program (PLP), and Pilot Loan Programs have been modified to include an additional statement that, for loans made under the Recovery Act, no individual who is an unauthorized alien has an ownership interest in another concern that itself has an ownership interest in the applicant. (The Standard 7(a) Eligibility Questionnaire can be found at *http://www.sba.gov/aboutsba/sbaprograms/elending/lgpc/forms/index.html.* The S/RLA eligibility checklist (SBA Form 2301–C) can be found at *http://www.sba.gov/tools/Forms/smallbusinessforms/fsforms/index.html.* The PLP Eligibility Checklist can be found at *http://www.sba.gov/idc/groups/public/documents/sba_program_office/bank_plpchcklist.pdf.* The Pilot Loan Programs eligibility checklist (SBA Form 1920SX, Part C) can be found at *http://www.sba.gov/tools/Forms/smallbusinessforms/fsforms/index.html.*)

The Recovery Act also states that a loan guarantee may not be made under this section ''for a loan to any entity found, based on a determination by the Secretary of Homeland Security or the Attorney General to have engaged in a pattern or practice of hiring, recruiting or referring for a fee, for employment in the United States an alien knowing the person is an unauthorized alien.'' (Section 502(c)(2).) To help ensure that an SBA loan guarantee is not made to such an entity, SBA will require each small business that receives a loan under this Act to certify that the business has not been determined by the Secretary of the Department of Homeland Security or the Attorney General to have engaged in a pattern or practice of hiring, recruiting or referring for a fee for employment in the United States an alien knowing the person is an unauthorized alien. Version 2009.2 of the 7(a) Loan Authorization Boilerplate

is available and incorporates this certification for Standard 7(a), Certified Lender Program (CLP), S/RLA, and PLP loans. For any Pilot Loan Program loans, the lender will be responsible for adding this requirement to the lender's authorization. (The Authorizations may be found at *http://www.sba.gov/aboutsba/sbaprograms/elending/authorizations/index.html*.)

In addition to providing this certification, as with all 7(a) loan applications, every proprietor, partner, officer, director and owner of 20% or more of the applicant must complete a Statement of Personal History (SBA Form 912). (SBA Form 912 can be found at *http://www.sba.gov/tools/Forms/smallbusinessforms/fsforms/index.html*.) This form requires the disclosure of whether: (1) The individual is presently under indictment, on parole or probation; (2) has ever been charged with and/or arrested for any criminal offense other than a minor motor vehicle violation, including offenses which have been dismissed, discharged or not prosecuted; and (3) has ever been convicted, placed on pretrial diversion, or placed on any form of probation, including adjudication withheld pending probation, for any criminal offense other than a minor vehicle violation. Thus, any violations of immigration laws would be required to be disclosed on this form.

Funding

Lenders may request the increased guaranty percentage of up to 90 percent for qualifying small business loan applications (or requests for loan numbers submitted under the delegated lending processes, except SBA Express) received by SBA on or after March 16, 2009. The increased guaranty percentage of up to 90 percent will be available until the earlier of February 17, 2010 or such date as funds made available for this purpose are exhausted. Depending on loan volume in the 7(a) program, SBA estimates that the increased guaranty percentage will be available through approximately December 31, 2009. SBA will notify the public when funds made available for this purpose are exhausted.

Use of Proceeds Restriction

Section 1604 of the Recovery Act provides that none of the funds appropriated or otherwise made available through the Recovery Act may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool. For otherwise eligible loans to these small businesses or for these uses, lenders may continue to submit applications or requests for loan numbers in accordance with SOP 50 10 5(A), with a maximum guaranty percentage of 75/85 percent, depending on the loan amount, and pay all applicable fees. For Recovery Act loan guaranties, it will be the responsibility of the lender to document in the credit memorandum that the applicant's use of proceeds does not include a restricted use or, if there is a restricted use component, the lender must document the other resources that the borrower has obtained to pay the costs allocable to the restricted use component. Lenders also will be expected to certify on the applicable eligibility checklist that no loan proceeds will be used for a restricted use. In addition, it will be the responsibility of the borrower to certify that it will not use any working capital loan proceeds for any restricted use. For all Recovery Act loan guaranties for the construction, acquisition or renovation of any business that has a restricted use, it will be the responsibility of the borrower to certify that it has obtained alternate funding which may come from the borrower's equity injection to pay the costs reasonably and in good faith estimated to be allocable to the restricted use. Failure by a lender to accurately identify a restricted use for a Recovery Act loan and reduce the guaranty percentage and remit appropriate fees within 90 days of loan approval or within 90 days of publication of this Notice, whichever is later, may result in SBA's denial of liability on the loan. Please refer to SBA Policy Notice 5000–1105 for further guidance on restricted uses of Recovery Act loan proceeds.

The eligibility questionnaire and checklists for the Standard 7(a), S/RLA, PLP, and Pilot Loan Programs have been modified to include an additional statement that, for loans made under the Recovery Act, no proceeds will be used for a restricted use. (The Standard 7(a) Eligibility Questionnaire can be found at *http://www.sba.gov/aboutsba/sbaprograms/elending/lgpc/forms/index.html*. The S/RLA eligibility checklist (SBA Form 2301–C) can be found at *http://www.sba.gov/tools/Forms/smallbusinessforms/fsforms/index.html*. The PLP Eligibility Checklist can be found at *http://www.sba.gov/idc/groups/public/documents/sba_program_office/bank_plpchcklist.pdf*. The Pilot Loan Programs eligibility checklist (SBA Form 1920SX, Part C) can be found at *http://www.sba.gov/tools/Forms/smallbusinessforms/fsforms/index.html*.)

Additional Requirements

All other provisions of the Small Business Act (15 U.S.C. 636) applicable to the 7(a) loan program and regulations promulgated thereunder that are not superseded by the relevant provisions of the Recovery Act will continue to apply to loans made under the Recovery Act.

Lenders and borrowers may be subject to additional reporting or recordkeeping requirements in connection with loans under the Recovery Act.

Cancellation and Resubmission of Loans Approved Prior to March 16, 2009

The purpose of the Recovery Act is to stimulate new lending. A loan cancelled and then resubmitted to obtain the increased guaranty percentage does not stimulate new lending and, therefore, is ineligible for Recovery Act treatment. Therefore, SBA will not permit cancelled 7(a) loans, which were approved prior to March 16, 2009 (the implementation date of Section 502 of the Recovery Act) to be resubmitted as Recovery Act loans eligible for a maximum guaranty percentage of up to 90%, unless the resubmitted loan is not a replacement for the original loan, as determined by SBA on a case by case basis.

Requests for a determination that it is not merely a replacement loan must be submitted by the lender to the Standard 7(a) Loan Guaranty Processing Center. The request will be reviewed and a recommendation will be forwarded to the Director/Office of Financial Assistance for approval. In making a case by case determination on resubmitted loans, the existence of one or more of the following factors will make it more likely that SBA will approve the request: (i) The loan was cancelled for reasons other than the passage of the Recovery Act (e.g., the loan was cancelled because the location for the new business was not available; subsequently another location became available and a new loan was approved); (ii) the new loan is for a different purpose (e.g., the original loan was for working capital but the new loan is for the acquisition of real estate); (iii) the new loan is likely to achieve additional economic stimulus (e.g., the previous loan would have preserved jobs but the new loan will also create jobs); or (iv) the new loan could not be made but for the provisions of the Recovery Act (e.g., the loan was cancelled because the borrower failed to meet a key provision (e.g., appraisal value) in the original loan authorization and, therefore, the lender would not make the loan now

but for the higher guaranty level). Based on past cancellation experience in SBA's loan programs, SBA expects that only a limited number of borrowers with cancelled/resubmitted loans will meet the criteria for a new loan with a higher guaranty percentage.

Changes to all loans approved prior to March 16, 2009, including loan increases, will be processed as changes to the original loan in accordance with SBA's standard practice.

SBA will provide further guidance as necessary, through SBA notices published on SBA's Web site, *http://www.sba.gov.*

Questions on the increased maximum guaranty percentage may be directed to the Lender Relations Specialist in the local SBA district office. The local SBA district office may be found at *http://www.sba.gov/localresources/index.html.*

Authority: Public Law 111–5, Div. A, Title V, Section 502, 123 Stat. 115.

Karen G. Mills,

Administrator.

[FR Doc. E9–13307 Filed 6–5–09; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 11766 and # 11767]

Kentucky Disaster # KY–00022

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the Commonwealth of Kentucky (FEMA–1841–DR), dated 05/29/2009.

Incident: Severe Storms, Tornadoes, Flooding, and Mudslides.

Incident Period: 05/03/2009 Through 05/20/2009.

Effective Date: 05/29/2009.

Physical Loan Application Deadline Date: 07/28/2009.

Economic Injury (EIDL) Loan Application Deadline Date: 03/01/2010.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 05/29/2009, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Breathitt, Floyd, Owsley, Pike.

Contiguous Counties (Economic Injury Loans Only):

Kentucky: Clay, Jackson, Johnson, Knott, Lee, Letcher, Magoffin, Martin, Perry, Wolfe.

Virginia: Buchanan, Dickenson, Wise.

West Virginia: Mingo.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	4.875
Homeowners Without Credit Available Elsewhere	2.437
Businesses With Credit Available Elsewhere	6.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	4.500
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 11766B and for economic injury is 117670

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E9–13309 Filed 6–5–09; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

SBA North Florida District Advisory Council

AGENCY: U.S. Small Business Administration.

ACTION: Notice of open Federal advisory committee meeting.

SUMMARY: The SBA is issuing this notice to announce the location, date, time, and agenda for the next meeting of the SBA North Florida District Advisory Council. The meeting will be open to the public.

DATES: The meeting will be held on Wednesday, June 24th from 12 p.m. to 2:30 p.m. Eastern Standard Time.

ADDRESSES: The meeting will be held at the Florida Institute of Human and Machine Cognition located at 40 South Alcaniz Street, Pensacola, Florida 32502.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), SBA announces the meeting of the SBA North Florida District Advisory Council. The SBA North Florida District Advisory Council is tasked with providing advice and opinions to SBA regarding the effectiveness of and need for SBA programs, particularly within North Florida and for listening to what is currently happening in the Florida small business community.

The purpose of the meeting is to discuss with the council the current status of small business across North Florida and to discuss the agency status under the new Administrator. The agenda includes: an overview of the status of the SBA as an agency from Wilfredo J. Gonzalez, SBA District Director, program updates from SBA staff, and an open forum to hear from the members of the council/audience.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public; however, advance notice of attendance is requested. Anyone wishing to attend and/or make a presentation to the SBA North Florida District Advisory Council must contact Lola Kress Naylor by June 19th, 2009, by fax or e-mail in order to be placed on the agenda. Lola Kress Naylor, Business Development Specialist, SBA North Florida District Office, *lola.naylor@sba.gov,* (904) 443–1933, fax (202) 481–4188. Additionally, if you need accommodations because of a disability or require additional information, please contact Lola Kress Naylor, Business Development Specialist, SBA North Florida District Office, *lola.naylor@sba.gov,* (904) 443–1933.

Dated: June 1, 2009.

Meaghan Burdick,

SBA Committee Management Officer.

[FR Doc. E9–13308 Filed 6–5–09; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice to waive the Nonmanufacturer Rule for Product Service Code (PSC) 9130—Liquid

Propellants—Petroleum Base Manufacturing.

SUMMARY: The U.S. Small Business Administration (SBA) is granting a waiver of the Nonmanufacturer Rule for PSC 9130—Liquid Propellants—Petroleum Base Manufacturing. The basis for waiver is that no small business manufacturers are supplying these classes of products to the Federal government. The effect of a waiver would be to allow otherwise qualified small businesses to supply the products of any manufacturer on a Federal contract set aside for small businesses, service-disabled veteran-owned small businesses or participants in SBA's 8(a) Business Development (BD) Program.

DATES: This waiver is effective June 23, 2009.

FOR FURTHER INFORMATION CONTACT: Pamela M. McClam, Program Analyst, by telephone at (202) 205–7408; by FAX at (202) 481–4783; or by e-mail at *Pamela.McClam@sba.gov.*

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act (Act), 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses or participants in SBA's 8(a) (BD) Program to provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. SBA's regulations provided the same for procurements set aside for service-disabled veteran-owned small business concerns. This requirement is commonly referred to as the Nonmanufacturer Rule. *See* 13 CFR § 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market. In order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. 13 CFR 1202(c).

The SBA defines ''class of products'' based on the Office of Management and Budget's North American Industry Classification System (NAICS) and PSCs within the NAICS code category. SBA received a request on April 20, 2009, to waive the Nonmanufacturer Rule for NAICS 324110, Petroleum Refineries, PSC 9130—Liquid Propellants—Petroleum Base Manufacturing.

In response, on May 11, 2009, SBA published in the **Federal Register** a notice of intent to waive the Nonmanufacturer Rule for PSC 9130—Liquid Propellants—Petroleum Base Manufacturing. SBA explained in the notice that it was soliciting comments and sources of small business manufacturers of this class of products. No comments were received and SBA has determined that there are no small business manufacturers of these classes of products. Therefore, SBA is granting the waiver of the Nonmanufacturer Rule for PSC 9130—Liquid Propellants—Petroleum Base Manufacturing.

Karen C. Hontz,

Director for Government Contracting.

[FR Doc. E9–13262 Filed 6–5–09; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice of intent to waive Nonmanufacturer Rule.

SUMMARY: The U. S. Small Business Administration (SBA) is considering granting a waiver of the Nonmanufacturer Rule for 13 Watt Compact Fluorescent Lamps (CFLs), 26 Watt CFLs, and Occupancy Sensors Dual Technology. According to a request, no small business manufacturers supply these classes of product to the Federal government. If granted, the waiver would allow otherwise qualified small businesses to supply the products of any manufacturer on a Federal contract set aside for small businesses, service-disabled veteran-owned small businesses, or Participants in the SBA's 8(a) Business Development (BD) Program.

DATES: Comments and source information must be submitted June 23, 2009.

ADDRESSES: You may submit comments and source information to Edith G. Butler, Program Analyst, Small Business Administration, Office of Government Contracting, 409 3rd Street, SW., Suite 8800, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Ms. Edith G. Butler, by telephone at (202) 619–0422; by FAX at (202) 481–1788; or by e-mail at *edith.butler@sba.gov.*

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act (Act), 15 U.S.C. 637(a)(17), and SBA's implementing regulations require that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or participants in the SBA's 8(a) BD Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. 13 CFR 121.406(b), 125.15(c). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market.

In order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. 13 CFR 121.1202(c).

The SBA defines ''class of products'' based on a six digit coding system. The coding system is the Office of Management and Budget North American Industry Classification System (NAICS). In addition, SBA uses product service codes (PSC) to further identify particular products within the NAICS code to which a waiver would apply.

The SBA is currently processing a request to waive the Nonmanufacturer Rule for 13 Watt CFLs, 26 Watt CFLs, and Occupancy Sensors Dual Technology, NAICS code 335110 PSC 6240.

The public is invited to comment or provide source information to SBA on the proposed waivers of the Nonmanufacturer Rule for this class of product code within 15 days after date of publication in the **Federal Register**.

Dated: June 2, 2009.

Karen C. Hontz,

Director for Government Contracting.

[FR Doc. E9–13263 Filed 6–5–09; 8:45 am]

BILLING CODE 8025–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 17g–1; SEC File No. 270–208; OMB Control No. 3235–0213.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 17g–1 (17 CFR 270.17g–1) under the Investment Company Act of 1940 (the ''Act'') (15 U.S.C. 80a–17(g)) governs the fidelity bonding of officers and employees of registered management investment companies (''funds'') and their advisers. Rule 17g–1 requires, in part, the following:

Independent Directors' Approval

The form and amount of the fidelity bond must be approved by a majority of the fund's independent directors at least once annually, and the amount of any premium paid by the fund for any ''joint insured bond,'' covering multiple funds or certain affiliates, must be approved by a majority of the fund's independent directors.

Terms and Provisions of the Bond

The amount of the bond may not be less than the minimum amounts of coverage set forth in a schedule based on the fund's gross assets; the bond must provide that it shall not be cancelled, terminated, or modified except upon 60-day written notice to the affected party and to the Commission; in the case of a joint insured bond, 60-day written notice must also be given to each fund covered by the bond; a joint insured bond must provide that the fidelity insurance company will provide all funds covered by the bond with a copy of the agreement, a copy of any claim on the bond, and notification of the terms of the settlement of any claim prior to execution of that settlement; and a fund that is insured by a joint bond must enter into an agreement with all other parties insured by the joint bond regarding recovery under the bond.

Filings With the Commission

Upon the execution of a fidelity bond or any amendment thereto, a fund must file with the Commission within 10 days a copy of the executed bond or any amendment to the bond, the independent directors' resolution approving the bond, and a statement as to the period for which premiums have been paid on the bond. In the case of a joint insured bond, a fund must also file (i) a statement showing the amount the fund would have been required to maintain under the rule if it were insured under a single insured bond and (ii) the agreement between the fund and all other insured parties regarding recovery under the bond. A fund must also notify the Commission in writing within five days of any claim or settlement on a claim under the fidelity bond.

Notices to Directors

A fund must notify by registered mail each member of its board of directors of (i) any cancellation, termination, or modification of the fidelity bond at least 45 days prior to the effective date, and (ii) the filing or settlement of any claim under the fidelity bond when notification is filed with the Commission.

Rule 17g–1's independent directors' annual review requirements, fidelity bond content requirements, joint bond agreement requirement and the required notices to directors are designed to ensure the safety of fund assets against losses due to the conduct of persons who may obtain access to those assets. These requirements also facilitate oversight of a fund's fidelity bond. The rule's required filings with the Commission are designed to assist the Commission in monitoring funds' compliance with the fidelity bond requirements.

Based on conversations with representatives in the fund industry, the Commission staff estimates that for each of the estimated 3,885 active funds,[1] the average annual paperwork burden associated with rule 17g–1's requirements is two hours, one hour each for a compliance attorney and the board of directors as a whole. The time spent by a compliance attorney includes time spent filing reports with the Commission for any fidelity losses (if any) as well as paperwork associated with any notices to directors, and managing any updates to the bond and the joint agreement (if one exists). The time spent by the board of directors as a whole includes any time spent initially establishing the bond, as well as time spent on annual updates and approvals. The Commission staff therefore estimates the total ongoing paperwork burden hours per year for all funds required by rule 17g–1 to be 7,770 hours (3,885 funds × 2 hours = 7,770 hours).

These estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act. These estimates are not derived from a comprehensive or even a representative survey or study of Commission rules. The collection of information required by Rule 17g–1 is mandatory and will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to Shagufta Ahmed at *Shagufta_Ahmed@omb.eop.gov;* and (ii) Charles Boucher, Director/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: June 1, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–13257 Filed 6–5–09; 8:45 am]

BILLING CODE 8010–01–P

[1] Based on statistics compiled by Commission staff, we estimate that there are approximately 3,885 funds that must comply with the collections of information under rule 17g–1.

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 12d1–1; SEC File No. 270–526; OMB Control No. 3235–0584.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Under current law, an investment company (''fund'') is limited in the amount of securities the fund (''acquiring fund'') can acquire from another fund (''acquired fund''). In general under the Investment Company Act of 1940 (15 U.S.C. 80a) (the ''Investment Company Act'' or ''Act''), a registered fund (and companies it controls) cannot: (i) Acquire more than three percent of another fund's securities; (ii) invest more than five percent of its own assets in another

fund; or (iii) invest more than ten percent of its own assets in other funds in the aggregate.[1] In addition, a registered open-end fund, its principal underwriter, and any registered broker or dealer cannot sell that fund's shares to another fund if, as a result: (i) The acquiring fund (and any companies it controls) owns more than three percent of the acquired fund's stock; or (ii) all acquiring funds (and companies they control) in the aggregate own more than ten percent of the acquired fund's stock.[2] Rule 12d1–1 under the Act (17 CFR 270.12d1–1) provides an exemption from these limitations for ''cash sweep'' arrangements, in which a fund invests all or a portion of its available cash in a money market fund rather than directly in short-term instruments. An acquiring fund relying on the exemption may not pay a sales load, distribution fee, or service fee on acquired fund shares, or if it does, the acquiring fund's investment adviser must waive a sufficient amount of its advisory fee to offset the cost of the loads or distribution fees.[3] The acquired fund may be a fund in the same fund complex or in a different fund complex. In addition to providing an exemption from section 12(d)(1) of the Act, the rule provides exemptions from section 17(a) and rule 17d–1, which restrict a fund's ability to enter into transactions and joint arrangements with affiliated persons.[4] These provisions could otherwise prohibit an acquiring fund from investing in a money market fund in the same fund complex,[5] or prohibit a fund that acquires five percent or more of the securities of a money market fund in another fund complex from making any additional investments in the money market fund.[6]

The rule also permits a registered fund to rely on the exemption to invest in an unregistered money market fund that limits its investments to those in which a registered money market fund may invest under rule 2a–7 under the Act (17 CFR 270.2a–7), and undertakes to comply with all the other provisions of rule 2a–7. In addition the acquiring fund must reasonably believe that the unregistered money market fund (i) operates in compliance with rule 2a–7, (ii) complies with sections 17(a), (d), (e), 18, and 22(e) of the Act[7] as if it were a registered open-end fund, (iii) has adopted procedures designed to ensure that it complies with these statutory provisions, (iv) maintains the records required by rules 31a–1(b)(2)(ii), 31a–1(b)(2)(iv), and 31a–1(b)(9);[8] and (v) preserves permanently, the first two years in an easily accessible place, all books and records required to be made under these rules.

Rule 2a–7 contains certain collection of information requirements. An unregistered money market fund that complies with rule 2a–7 would be subject to these collection of information requirements. In addition, the recordkeeping requirements under rule 31a–1 with which the acquiring fund reasonably believes the unregistered money market fund complies are collections of information for the unregistered money market fund. By allowing funds to invest in registered and unregistered money market funds, rule 12d1–1 is intended to provide funds greater options for cash management. In order for a registered fund to rely on the exemption to invest in an unregistered money market fund, the unregistered money market fund must comply with certain collection of information requirements for registered money market funds. These requirements are intended to ensure that the unregistered money market fund has established procedures for collecting the information necessary to make adequate credit reviews of securities in its portfolio, as well as other recordkeeping requirements that will assist the acquiring fund in overseeing the unregistered money market fund (and Commission staff in its examination of the unregistered money market fund's adviser).

Commission staff estimates that registered funds currently invest in 60 unregistered money market funds in excess of the statutory limits under rule 12d1–1, and will invest in approximately 6 new unregistered money market funds each year.[9] Staff estimates that each of these unregistered money market funds spends 1,220 hours to perform the record of credit risk analysis and other determinations annually, and each of the 6 unregistered money market funds in which an acquiring fund invests in for the first time under the rule will spend 21 hours to implement the board procedures. Finally, Commission staff estimates that 15 unregistered money market funds each spend 4.5 hours to review and amend procedures annually. The estimated total of annual responses under rule 12d1–1 is 10,713,[10] and the estimate of burden hours associated with these responses is 80,714 hours.[11]

Commission staff estimates that unregistered money market funds also incur costs to preserve records, as required under rule 2a–7. These costs will vary significantly for individual funds, depending on the amount of assets under fund management and whether the fund preserves its records in a storage facility in hard copy or has developed and maintains a computer system to create and preserve compliance records. In its rule 2a–7 Paperwork Reduction Act (''PRA'') submission, Commission staff estimated that the amount an individual money market fund may spend ranged from $100 per year to $300,000. We have no reason to believe the range is different for unregistered money market funds. The Commission does not have specific information on the amount of assets managed by unregistered money market funds. Accordingly, Commission staff estimates that an unregistered money market fund in which registered funds invest in reliance on rule 12d1–1 have, on average, $380 million in assets under

[1] *See* 15 U.S.C. 80a–12(d)(1)(A). If an acquiring fund is not registered, these limitations apply only with respect to the acquiring fund's acquisition of registered funds.

[2] *See* 15 U.S.C. 80a–12(d)(1)(B).

[3] *See* Rule 12d1–1(b)(1).

[4] *See* 15 U.S.C. 80a–17(a), 15 U.S.C. 80a–17(d); 17 CFR 270.17d–1.

[5] An affiliated person of a fund includes any person directly or indirectly controlling, controlled by, or under common control with such other person. *See* 15 U.S.C. 80a–2(a)(3)(C) (definition of ''affiliated person''). Most funds today are organized by an investment adviser that advises or provides administrative services to other funds in the same complex. Funds in a fund complex are generally under common control of an investment adviser or other person exercising a controlling influence over the management or policies of the funds. *See* 15 U.S.C. 80a–2(a)(9). Not all advisers control funds they advise. The determination of whether a fund is under the control of its adviser, officers, or directors depends on all the relevant facts and circumstances. See Investment Company Mergers, Investment Company Act Release No. 25259 (Nov. 8, 2001) [66 FR 57602 (Nov. 15, 2001)], at n.11. To the extent that an acquiring fund in a fund complex is under common control with a money market fund in the same complex, the funds would rely on the rule's exemptions from section 17(a) and rule 17d–1.

[6] *See* 15 U.S.C. 80a–2(a)(3)(A), (B).

[7] *See* 15 U.S.C. 80a–17(a), 15 U.S.C. 80a–17(d), 15 U.S.C. 80a–17(e), 15 U.S.C. 80a–18, 15 U.S.C. 80a–22(e).

[8] *See* 17 CFR 270.31a–1(b)(2)(ii), 17 CFR 270.31a–1(b)(2)(iv), 17 CFR 270.31a–1(b)(9).

[9] This estimate is based on the number of applications filed with the Commission in 2005 (40), increased by investment in 6 new funds each year since 2005 (18), and rounded to the nearest tenth (60). This estimate may be understated because applicants generally do not identify the name or number of unregistered money market funds in which registered funds intend to invest, and each application also applies to unregistered money market funds to be organized in the future.

[10] This estimate is based on the following calculation: $(60 \times 162) + (6 \times 162) + (6 \times 1) + (15 \times 1) = 10{,}713$.

[11] This estimate is based on the following calculation: $(60 \times 1{,}220) + (6 \times 1{,}220) + (6 \times 21) + (15 \times 4.5) = 80{,}714$.

management.[12] Based on a cost of $0.0000005 per dollar of assets under management for medium-sized funds, the staff estimates compliance with rule 2–7 costs these types of unregistered money market funds $11,400 annually.[13] Commission staff estimates that unregistered money market funds do not incur any capital costs to create computer programs for maintaining and preserving compliance records for rule 2a–7.[14]

The collections of information required for unregistered money market funds by rule 12d1–1 are necessary in order for acquiring funds to be able to obtain the benefits described above. Notices to the Commission will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to Shagufta Ahmed at *Shagufta_Ahmed@omb.eop.gov;* and (ii) Charles Boucher, Director/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

June 1, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–13256 Filed 6–5–09; 8:45 am]

BILLING CODE 8010–01–P

[12] This estimate is based on the average of assets under management of medium-sized registered money market funds ($50 million to $999 million).

[13] This estimate was based on the following calculation: 60 unregistered money market funds x $380 million in assets under management × $0.0000005 = $11,400. The estimate of cost per dollar of assets is the same as that used for medium-sized funds in the rule 2a–7 PRA submission.

[14] This estimate is based on information Commission staff obtained in its survey for the rule 2a–7 PRA submission. Of the funds surveyed, no medium-sized funds incurred this type of capital cost. The funds either maintained record systems using a program the fund would be likely to have in the ordinary course of business (such as Excel) or the records were maintained by the fund's custodian.

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 6c–7; SEC File No. 270–269; OMB Control No. 3235–0276.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 6c–7 (17 CFR 270.6c–7) under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (''1940 Act'') provides exemption from certain provisions of Sections 22(e) and 27 of the 1940 Act for registered separate accounts offering variable annuity contracts to certain employees of Texas institutions of higher education participating in the Texas Optional Retirement Program. There are approximately 100 registrants governed by Rule 6c–7. The burden of compliance with Rule 6c–7, in connection with the registrants obtaining from a purchaser, prior to or at the time of purchase, a signed document acknowledging the restrictions on redeemability imposed by Texas law, is estimated to be approximately 3 minutes per response for each of approximately 3000 purchasers annually (at an estimated $63 per hour),[1] for a total annual burden of 150 hours (at a total annual cost of $9,450).

Rule 6c–7 requires that the separate account's registration statement under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) include a representation that Rule 6c–7 is being relied upon and is being complied with. This requirement enhances the Commission's ability to monitor utilization of and compliance with the rule. There are no recordkeeping requirements with respect to Rule 6c–7.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules or forms. The Commission does not include in the estimate of average burden hours the time preparing registration statements and sales literature disclosure regarding the restrictions on redeemability imposed by Texas law. The estimate of burden hours for completing the relevant registration statements are reported on the separate PRA submissions for those statements. (*See* the separate PRA submissions for Form N–3 (17 CFR 274.11b) and Form N–4 (17 CFR 274.11c.)

Complying with the collection of information requirements of the rules is necessary to obtain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an email to Shagufta Ahmed at *Shagufta_Ahmed@omb.eop.gov;* and (ii) Charles Boucher, Director/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: June 1, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–13255 Filed 6–5–09; 8:45 am]

BILLING CODE 8010–01–P

[1] $63/hour figure for a Compliance Clerk is from *SIFMA's Office Salaries in the Securities Industry 2008,* modified by Commission staff to account for an 1800-hour work-year and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead.

SECURITIES AND EXCHANGE COMMISSION

Proposed Extension of Existing Request; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Regulation S–P, OMB Control No. 3235–0537, SEC File No. 270–480.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in the following rule:

Regulation S–P—Privacy of Consumer Financial Information (17 CFR Part 248) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act''). The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

The Commission adopted Regulation S–P (17 CFR Part 248) under the authority set forth in section 504 of the Gramm-Leach-Bliley Act (15 U.S.C. 6804), sections 17 and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78q, 78w), sections 31 and 38 of the Investment Company Act of 1940 (15 U.S.C. 80a–30(a), 80a–37), and sections 204 and 211 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–4, 80b–11). Regulation S–P implements the requirements of Title V of the Gramm-Leach-Bliley Act (''GLBA''), which include the requirement that at the time of establishing a customer relationship with a consumer and not less than annually during the continuation of such relationship, a financial institution shall provide a clear and conspicuous disclosure to such consumer of such financial institution's policies and practices with respect to disclosing nonpublic personal information to affiliates and nonaffiliated third parties (''privacy notice''). Title V of the GLBA also provides that, unless an exception applies, a financial institution may not disclose nonpublic personal information of a consumer to a nonaffiliated third party unless the financial institution clearly and conspicuously discloses to the consumer that such information may be disclosed to such third party; the consumer is given the opportunity, before the time that such information is initially disclosed, to direct that such information not be disclosed to such third party; and the consumer is given an explanation of how the consumer can exercise that nondisclosure option (''opt out notice''). The privacy notices required by the GLBA are mandatory. The opt out notices are not mandatory for financial institutions that do not share nonpublic personal information with nonaffiliated third parties except as permitted under an exception to the statute's opt out provisions. Regulation S–P implements the statute's privacy notice requirements with respect to broker-dealers, investment companies, and registered investment advisers (''covered entities''). The Act and Regulation S–P also contain consumer reporting requirements. In order for consumers to opt out, they must respond to opt out notices. At any time during their continued relationship, consumers have the right to change or update their opt out status. Most covered entities do not share nonpublic personal information with nonaffiliated third parties and therefore are not required to provide opt out notices to consumers under Regulation S–P. Therefore, few consumers are required to respond to opt out notices under the rule.

Compliance with Regulation S–P is necessary for covered entities to achieve compliance with the consumer financial privacy notice requirements of Title V of the GLBA. The required consumer notices are not submitted to the Commission. Because the notices do not involve a collection of information by the Commission, Regulation S–P does not involve the collection of confidential information. Regulation S–P does not have a record retention requirement per se, although the notices to consumers it requires are subject to the recordkeeping requirements of Rules 17a–3 and 17a–4 (17 CFR 240.17a–3 and 17a–4).

The Commission estimates that approximately 20,065 covered entities (approximately 5,326 registered broker-dealers, 4,571 investment companies, and, out of a total of 11,266 registered investment advisers, 10,168 registered investment advisers that are not also registered broker-dealers) that must prepare or revise their annual and initial privacy notices will spend an average of approximately 12 hours per year complying with Regulation S–P. Thus, the total compliance burden is estimated to be approximately 240,780 burden-hours per year.

Written 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 estimates of the burden 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. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Comments should be directed to Charles Boucher, Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov.*

Dated: June 1, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–13254 Filed 6–5–09; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 27e–1 and Form N–27E–1, SEC File No. 270–486, OMB Control No. 3235–0545.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Section 27(e) of the Investment Company Act of 1940 (''Act'') (15 U.S.C. 80a–27(e)) provides in part that a registered investment company issuing a periodic payment plan certificate,[1] or any depositor or underwriter for such company (collectively ''issuer''), must notify in writing ''each certificate holder who has missed three payments or more, within thirty days following the expiration of fifteen months after the issuance of the certificate, or, if any such holder has missed one payment or more after such period of fifteen months but prior to the expiration of eighteen months after the issuance of the certificate, at any time prior to the expiration of such eighteen month period, of his right to surrender his certificate * * * and inform the certificate holder of (A) the value of the holder's account * * * , and (B) the amount to which he is entitled * * * .''

Section 27(e) authorizes the Commission to ''make rules specifying the method, form, and contents of the notice required by this subsection.'' Rule 27e–1 (17 CFR 270.27e–1) under the Act, entitled ''Requirements for Notice to Be Mailed to Certain Purchasers of Periodic Payment Plan Certificates Sold Subject to Section 27(d) of the Act,'' provides instructions

[1] As discussed below, the Military Personnel Financial Services Protection Act banned the issuance or sale of new periodic payment plans, effective October 2006.

for the delivery of the notice required by section 27(e).

Rule 27e–1(f) prescribes Form N–27E–1 (17 CFR 274.127e–1), which sets forth the language the issuing registered investment company or its depositor or underwriter must use ''to inform certificate holders of their right to surrender their certificates pursuant to Section 27(d).'' The instructions to the form require that a notice containing the language on the form be sent to certificate holders on the sender's letterhead. The issuer is not required to file with the Commission a copy of the Form N–27E–1 notice.

The Form N–27E–1 notice to certificate holders who have missed certain payments is intended to encourage certificate holders, in light of the potential for further missed payments, to weigh the anticipated costs and benefits associated with continuing to hold their certificates. The disclosure assists certificate holders in making careful and fully informed decisions about whether to continue investing in periodic payment plan certificates.

Effective October 27, 2006, the Military Personnel Financial Services Protection Act banned the issuance or sale of new periodic payment plans. Accordingly, the staff estimates that there is no longer any information collection burden associated with rule 27e–1 and Form N–27E–1. For administrative purposes, however, we are requesting approval for an information collection burden of one hour per year. This estimate of burden hours is not derived from a comprehensive or necessarily even representative study of the cost of the Commission's rules and forms.

Complying with the collection of information requirements of rule 27e–1 is mandatory for issuers of periodic payment plans or their depositors or underwriters in the event holders of plan certificates miss certain payments within eighteen months after issuance. The information provided pursuant to rule 27e–1 will be provided to third parties and, therefore, will not be kept confidential. The Commission is seeking OMB approval, because an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to Shagufta Ahmed at *Shagufta_Ahmed@omb.eop.gov*; and (ii) Charles Boucher, Director/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: June 1, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–13260 Filed 6–5–09; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 23c–1; SEC File No. 270–253; OMB Control No. 3235–0260.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 23c–1 (17 CFR 270.23c–1) under the Investment Company Act of 1940 (15 U.S.C. 80a), among other things, permits a closed-end fund to repurchase its securities for cash if in addition to the other requirements set forth in the rule: (i) Payment of the purchase price is accompanied or preceded by a written confirmation of the purchase; (ii) the asset coverage per unit of the security to be purchased is disclosed to the seller or his agent; and (iii) if the security is a stock, the fund has, within the preceding six months, informed stockholders of its intention to purchase stock. Commission staff estimates that approximately 36 closed-end funds rely on Rule 23c–1 annually to undertake approximately 324 repurchases of their securities. Commission staff estimates that, on average, a fund spends 2.5 hours to comply with the paperwork requirements listed above each time it undertakes a security repurchase under the rule. Commission staff thus estimates the total annual burden of the rule's paperwork requirements is 810 hours.

In addition, the fund must file with the Commission a copy of any written solicitation to purchase securities given by or on behalf of the fund to 10 or more persons. The copy must be filed as an exhibit to Form N–CSR (17 CFR 249.331 and 274.128). The burden associated with filing Form N–CSR is addressed in the submission related to that form.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

Complying with the collection of information requirements of the rule is mandatory. The filings that the rule requires to be made with the Commission are available to the public. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to Shagufta Ahmed at *Shagufta_Ahmed@omb.eop.gov;* and (ii) Charles Boucher, Director/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: June 1, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–13259 Filed 6–5–09; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 20a–1; SEC File No. 270–132; OMB Control No. 3235–0158.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously

approved collection of information discussed below.

Rule 20a–1 (17 CFR 270.20a–1) under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) requires that the solicitation of a proxy, consent, or authorization with respect to a security issued by a registered investment company (''fund'') be in compliance with Regulation 14A (17 CFR 240.14a–1 *et seq.*), Schedule 14A (17 CFR 240.14a–101), and all other rules and regulations adopted under section 14(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(a)). It also requires a fund's investment adviser, or a prospective adviser, to transmit to the person making a proxy solicitation the information necessary to enable that person to comply with the rules and regulations applicable to the solicitation. In addition, rule 20a–1 instructs registered investment companies, that have made a public offering of securities and that hold security holder votes for which proxies, consents, or authorizations are not being solicited, to refer to the Commission's rules governing information statements.

Regulation 14A and Schedule 14A establish the disclosure requirements applicable to the solicitation of proxies, consents and authorizations. In particular, Item 22 of Schedule 14A contains extensive disclosure requirements for fund proxy statements. Among other things, it requires the disclosure of information about fund fee or expense increases, the election of directors, the approval of an investment advisory contract and the approval of a distribution plan.

The Commission requires the dissemination of this information to assist investors in understanding their fund investments and the choices they may be asked to make regarding fund operations. The Commission does not use the information in proxies directly, but reviews proxy statement filings for compliance with applicable rules.

It is estimated that funds file approximately 1,225 proxy solicitations annually with the Commission. That figure includes multiple filings by some funds. The total annual reporting and recordkeeping burden of the collection of information is estimated to be approximately 130,095 hours (1,225 responses × 106.2 hours per response).

Rule 20a–1 does not involve any recordkeeping requirements. Providing the information required by the rule is mandatory and information provided under the rule will not be kept confidential.

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

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to Shagufta Ahmed at *Shagufta_Ahmed@omb.eop.gov;* and (ii) Charles Boucher, Director/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: June 1, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–13258 Filed 6–5–09; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 28755; File No. 812–13650]

WisdomTree Investments, Inc., et al.; Notice of Application

June 1, 2009.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application to amend: (1) A prior order under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), 22(e), and 24(d) 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;[1] and (2) a prior order under section 6(c) of the Act, for an exemption from sections 2(a)(32), 5(a)(1) and 22(d) 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) of the Act exempting certain transactions from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act.[2]

SUMMARY OF APPLICATION: Applicants request an order (''Order'') to amend the Prior Orders to modify a condition so that Acquiring Funds may rely on the Prior Orders to invest in the WisdomTree India Earnings Fund (''India Fund'') and additional series of the WisdomTree Trust (''Future Funds'') that invest all of their respective assets in wholly-owned subsidiaries as described in the application. Applicants also seek to amend the Index Order by deleting the relief granted from the requirements of section 24(d) of the Act and revising related terms and conditions of the applications for the Index Order (''Index Applications'').

APPLICANTS: WisdomTree Investments, Inc. (''WTI''), WisdomTree Asset Management, Inc. (the ''Advisor''), and WisdomTree Trust (''Trust'').

FILING DATES: The application was filed on April 3, 2009 and amended on April 22, 2009, and May 26, 2009.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on June 26, 2009, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. *Applicants:* 48 Wall Street, Suite 1100, New York, NY 10005.

FOR FURTHER INFORMATION CONTACT: Barbara T. Heussler, Senior Counsel, at

[1] WisdomTree Investments, Inc., *et al.*, Investment Company Act Release Nos. 27324 (May 18, 2006) (notice) and 27391 (June 12, 2006) (order), as amended by Investment Company Act Release Nos. 27976 (September 21, 2007) (notice) and 28015 (October 17, 2007) (order) (together, the ''Index Order'').

[2] WisdomTree Trust, *et al.*, Investment Company Act Release Nos. 28147 (February 6, 2008) (notice) and 28174 (February 27, 2008) (order) (the ''Active Order'' and together with the Index Order, collectively ''Prior Orders''). The Prior Orders, among other things: (i) Permitted registered management investment companies and unit investment trusts that are not advised or sponsored by their investment adviser or an entity controlling, controlled by or under common control with their investment adviser, and not part of the same ''group of investment companies'' as defined in section 12(d)(1)(G)(ii) of the Act as the Trust (''Acquiring Funds''), to acquire shares of the Funds (defined below) beyond the limits of section 12(d)(1)(A) of the Act; (ii) permitted each Fund and/or a broker to sell shares to an Acquiring Fund beyond the limits of section 12(d)(1)(B); and (iii) granted relief from sections 17(a)(1) and (2) to permit each Fund to sell its shares to, and redeem its shares from, an Acquiring Fund (''Prior 12(d)(1) Relief'').

(202) 551–6990, or Michael W. Mundt, Assistant Director, at (202) 551–6820 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust, a Delaware statutory trust registered under the Act as an open-end management investment company, is organized as a series fund with multiple series (the ''Funds''). WTI, a Delaware corporation with its principal offices in New York City, is the sole shareholder of the Advisor. WTI develops and maintains the proprietary stock index that serves as the basis for the India Fund. The Advisor is a Delaware corporation that is registered as an investment adviser under the Investment Advisers Act of 1940, as amended (''Advisers Act''). The Advisor, or an entity controlled by or under common control with the Advisor, will advise any Future Funds. BNY Investment Advisors (the ''Subadvisor'') is registered as an investment adviser under the Advisers Act and serves as the subadvisor to the India Fund and its wholly-owned subsidiary, the WisdomTree India Investment Portfolio (''India Portfolio''). Any subadvisor for a Future Fund will be registered as an investment adviser under the Advisers Act and will not otherwise be an affiliated person of the Trust, the Advisor, or WTI. ALPS Distributors, Inc., a broker-dealer registered under the Securities Exchange Act of 1934, acts as distributor and principal underwriter of the India Fund and may perform such services for any Future Funds.

2. The investment objective of the India Fund is to provide investment results that correspond generally to the price and yield performance, before fees and expenses, of its underlying index, the WisdomTree India Earnings Index (''Underlying Index''). The Underlying Index measures the performance of companies incorporated, listed and traded in India that are eligible for foreign investment and that meet specified liquidity and other criteria developed by WTI. The India Fund operates through the India Portfolio, a wholly-owned subsidiary organized in the Republic of Mauritius, in order to take advantage of favorable tax treatment by the Indian government pursuant to a taxation treaty between India and Mauritius.[3] In seeking to achieve its investment objective, the India Fund invests all or substantially all of its assets in the India Portfolio. The India Portfolio invests directly in equity securities listed and traded in India using a ''representative sampling'' strategy with respect to its Underlying Index. Using this approach, the India Portfolio invests in a significant number of the component securities (''Component Securities'') of the Underlying Index, but usually not all the Component Securities.

3. The applicants state that at least 95% of the India Portfolio's total assets (exclusive of collateral held from securities lending) are invested in the Component Securities of its Underlying Index. The India Portfolio is treated by the Trust as a ''pass-through'' entity for financial reporting and tax purposes, which means that the portfolio investments of the India Portfolio are treated as investments of the India Fund for financial reporting and tax purposes. By treating the India Portfolio as a pass-through entity, the India Fund complies with (and any Future Fund will comply with) the representation in the applications for the Index Order to invest at least 80% of its total assets in Component Securities and investments that have economic characteristics that are substantially identical to the economic characteristics of the Component Securities of its Underlying Index.

4. The Prior 12(d)(1) Relief is subject to a condition that effectively prevents an Acquiring Fund from investing in a Fund if the Fund invests in another investment company in excess of the limits of section 12(d)(1)(A) of the Act.[4] The India Fund currently invests in a wholly-owned subsidiary, India Portfolio, in excess of the limits of section 12(d)(1)(A) in reliance on certain no-action positions of the staff.[5] The applicants seek to amend Condition 18 of the Prior Orders so the Acquiring Funds may invest in the India Fund and in Future Funds that invest their respective assets in a wholly-owned subsidiary in a manner substantially similar to the India Fund.

5. Applicants also seek to amend the Index Order to delete the relief previously granted from section 24(d) of the Act. In addition, applicants seek to amend the terms and conditions of the applications for the Prior Orders (''Prior Applications'') to provide that all representations and conditions contained in the Prior Applications and the current application that require a Fund to disclose particular information in the Fund's prospectus (''Prospectus'') and/or annual report shall be effective with respect to the Fund until the time that the Fund complies with the disclosure requirements adopted by the Commission in Investment Company Act Release No. 28584 (Jan. 13, 2009) (''Summary Prospectus Rule''). Applicants state that such amendment is warranted because the Commission's amendments to Form N–1A with regard to exchange-traded funds as part of the Summary Prospectus Rule reflect the Commission's view with respect to the appropriate types of prospectus and annual report disclosures for an exchange-traded fund.

Applicants' Legal Analysis

1. 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) of the Act if the exemption is consistent with the public interest and the protection of investors. Because the India Portfolio invests up to 100% of its assets in securities issued by Indian companies, applicants state that the India Portfolio could be viewed as an investment company as defined in section 3(a) of the Act.[6] Therefore, the India Fund's investment in the India Portfolio could be viewed as causing the India Fund to

[3] The tax treaty between India and Mauritius exempts corporate residents of Mauritius from the Indian capital gains tax and enables them to pay a reduced dividend withholding tax.

[4] Condition 18 of the Index Order and condition 12 of the Active Order (collectively, ''Condition 18'') state that: No Fund will acquire securities of any other investment company or company relying on Section 3(c)(1) or 3(c)(7) of the 1940 Act in excess of the limits contained in Section 12(d)(1)(A) of the Act.

[5] Applicants note that the Commission staff has permitted an open-end investment company to utilize a pass through investment vehicle in order to obtain favorable tax treatment without violating Section 12(d)(1) of the Act. *See* South Asia Portfolio, (1997 WL 107157) (Pub. avail. Mar. 12, 1997). Applicants represent that the India Portfolio operates in a manner substantially similar to the pass through investment vehicle that is the subject of *South Asia Portfolio* no-action relief.

[6] Section 3(a)(1) defines an ''investment company'' as any issuer that is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, or trading in securities. Section 3(a)(1)(C) includes in the definition of an ''investment company'' any issuer that is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40% of the value of such issuer's total assets on an unconsolidated basis.

fail to comply with Condition 18 of the Prior Orders.

2. Applicants state that the concerns that sections 12(d)(1) was designed to prevent about undue influence, excessive layering of fees and overly complex structures, are not present in the India Portfolio and other pass-through investment vehicles used solely for purposes of achieving favorable tax treatment. Applicants represent that the India Fund is the sole legal and beneficial owner of the India Portfolio, thus eliminating any concerns regarding pyramiding of voting control; the Advisor and Subadvisor direct the portfolio management of both the India Fund and the India Portfolio, which is a pass-through investment vehicle, thus eliminating concerns over any undue influence of the Advisor or Subadvsior; and there is no layering of fees as a result of the India Fund operating through the India Portfolio. Applicants further represent that any Future Fund will operate through a wholly-owned investment vehicle that qualifies for pass-through tax and accounting treatment in a manner similar to that of the India Fund. Applicants believe that given the absence of section 12(d)(1) concerns in this structure, it will not create any additional section 12(d)(1) concerns if Acquiring Funds are permitted to acquire shares of the India Fund and any Future Fund subject to the terms and conditions of the Prior 12(d)(1) Relief, as amended by this application.

3. Applicants submit that the proposed amendment to Condition 18 of the Prior Orders addresses the concerns underlying the limits in section 12(d)(1) of the Act and that the requested exemption is consistent with the public interest and the protection of investors. Applicants state that all representations contained in the relevant Prior Applications relating to the operation of the India Fund will remain in effect and will apply to any Future Funds.

Section 24(d) of the Act:

4. Applicants seek to amend the Index Order to delete the relief granted from section 24(d) of the Act. Applicants state that the deletion of the exemption from section 24(d) that was granted in the Index Order is warranted because the adoption of the Summary Prospectus Rule should supplant any need by a Fund to use a product description. The deletion of the relief granted with respect to section 24(d) of the Act from the Index Order also will result in the deletion of related discussion in the Index Applications, revision of the Index Applications to delete references to product descriptions, including in the conditions, and the deletion of condition 6 to the Index Order.

Conditions

Applicants agree that any Order of the Commission granting the requested relief will be subject to the same conditions as those imposed by the Prior Orders, except for Condition 18 to the Prior Orders, which will be amended as follows:

No Fund will acquire securities of any investment company or company relying on Section 3(c)(1) or 3(c)(7) of the Act in excess of limits contained in Section 12(d)(1)(A) of the Act, other than the India Portfolio or any similar wholly-owned subsidiary.

In addition, with respect to the Index Order, condition 6 will be deleted and conditions 4 and 7 will be amended as follows: [7]

4. The Web site for each Fund, which will be publicly accessible at no charge, will contain the following information, on a per Share basis, for each Fund: (a) the prior Business Day's NAV and the reported closing price, and a calculation of the premium or discount of such price against such NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the daily closing price against the NAV, within appropriate ranges, for each of the four previous calendar quarters.

7. Each Fund's Prospectus will clearly disclose that, for purposes of the Act, Shares are issued by the Funds and that the acquisition of Shares by investment companies is subject to the restrictions of section 12(d)(1) of the Act, except as permitted by an exemptive order that permits registered investment companies to invest in a Fund beyond the limits of section 12(d)(1), subject to certain terms and conditions, including that the registered investment company enter into an agreement with the Fund regarding the terms of the investment.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–13204 Filed 6–5–09; 8:45 am]

BILLING CODE 8010–01–P

[7] All representations and conditions contained in this application and the Prior Applications that require a Fund to disclose particular information in the Fund's Prospectus and/or annual report shall remain effective with respect to the Fund until the time that the Fund complies with the disclosure requirements contained in the Summary Prospectus Rule.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60018; File No. SR–CBOE–2009–031]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change Amending CBOE Rules Relating to the Penny Pilot Program

June 1, 2009.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 28, 2009, the Chicago Board Options Exchange, Incorporated (''CBOE'' 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend CBOE rules relating to the Penny Pilot Program. The text of the rule proposal is available on the Exchange's Web site (*http://www.cboe.org/legal*), at the Exchange's Office of the Secretary and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

CBOE proposes to extend and expand the Penny Pilot Program, which

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

commenced on January 26, 2007. Presently, the Penny Pilot Program is in effect in fifty-eight multiply-listed option classes, representing approximately 53% of the national volume in April 2009.[4] For all classes in the Program except for the QQQQs, the minimum increment for bids and offers is 0.01 for all option series below $3 (including LEAPS), and $0.05 for all option series $3 and above (including LEAPS). For QQQQs, the minimum increment is $0.01 for all option series. The Penny Pilot Program is scheduled to expire on July 3, 2009.

During the course of the Penny Pilot, CBOE has thoroughly analyzed the impact of penny quoting in the Pilot classes, including in such areas as average spread, average size, quote message traffic, and industry volume. CBOE has submitted several reports to the SEC describing the impact of the changes to the minimum increments in the Pilot classes, and has identified various trends that have manifested themselves.[5] These trends include: a significant reduction in liquidity at the BBO; a decrease in volume in some classes [6]; a dramatic rise in quote traffic; and a reduction in average spread width. With respect to quote traffic, five of seven options exchanges have set all-time peak message rates thus far in 2009, three of which occurred in the past three weeks.

In an effort to develop a long-term solution to the issue of penny pricing in options, last March 2008 CBOE proposed that the industry adopt a structure whereby option series of less than $1 premium value are quoted in penny increments, and series at $1 or above quoted in nickel increments. CBOE has explained the advantages of its proposal, which include:

- Providing the benefits of penny quoting and trading in those option contracts that customers actually trade. 61% of customer contract volume is in series priced up to $1. In the Penny Pilot classes, 52% of customer contract volume is in series priced up to $1;
- Introducing penny increments in nearly all listed option classes;
- Reducing the current dime increment to nickels in those same classes for series priced $1 and above;
- Helping to reduce the explosion of quote traffic that would otherwise occur if the current $3 breakpoint was maintained as part of a large expansion;
- Providing a simple and easily understood standard for investors as to which options are quoted in penny increments; and
- Providing flexibility in that if it is determined that the benefits of penny quoting at a breakpoint higher than $1 outweigh any negatives, modifying the breakpoint would be fairly easy to implement.

CBOE's proposal to reduce the $3 breakpoint to $1 for the Penny Pilot classes has been endorsed by the Equity Options Committee of SIFMA, which has stated that ''retail order flow is far more likely to concentrate activity in low premium options as opposed to those with much larger premium levels.'' [7] CBOE reiterated its long-term solution to the issue of penny pricing in options in its September 4, 2008, and March 9, 2009 Penny Pilot Report to the SEC.

CBOE believed then and continues to believe that developing a long-term solution is necessary so that the exchanges, its members, market data vendors, and other market participants can make informed decisions regarding systems and capacity planning. Accordingly, CBOE proposes to extend the Pilot Program through December 31, 2010. CBOE also proposes to significantly expand Pilot Program to all equity and ETF option classes, such that at the end of a brief roll-out period all equity and ETF option classes would be included in the Penny Pilot Program. Moreover, in all Pilot classes, option series of less than $1 premium value would be quoted in penny increments, and series at $1 or above would be quoted in nickel increments. Specifically, CBOE proposes the following [8]:

- Extend the existing Penny Pilot Program until 60 days following SEC approval of this rule change, at which time the minimum increment ''breakpoint'' would be reduced from $3 to $1 in all Penny Pilot classes, such that all option series of less than $1 premium value are quoted in penny increments with all series $1 and above quoted in nickel increments. Although all series in the QQQQ currently are quoted in penny increments, CBOE believes that the same $1 breakpoint standard should apply in the QQQQs as well.[9]
- 90 days following SEC approval of this rule change, an additional forty-two classes would be added to the Penny Pilot Program bringing the total number of classes in the Pilot Program to 100. These forty-two new classes would be among the most active, multiply-listed equity and ETF option classes that are not currently in the Pilot Program.
- 120 days following SEC approval of this rule change, an additional 200 option classes would be added to the Penny Pilot Program bringing the total number of classes in the Pilot Program to 300. These 200 new classes would be among the most active, multiply-listed equity or ETF option classes that are not currently in the Pilot Program.
- 150 days following SEC approval of this rule change, an additional 400 option classes would be added to the Penny Pilot Program bringing the total number of classes in the Pilot Program to 700. These 400 new classes would be among the most active, multiply-listed equity or ETF option classes that are not currently in the Pilot Program.
- 180 days following SEC approval of this rule change, all remaining equity and ETF option classes would be added to the Penny Pilot Program.

The above roll-out schedule contemplates the launch of the new Linkage Plan, which is scheduled to occur in the 3rd quarter of 2009, prior to any expansion of the Penny Pilot Program. CBOE believes strongly the new Linkage Plan should be implemented before a significant expansion occurs because intermarket sweep orders (ISOs) will be available in the new Linkage Plan, and thus allow market participants to simultaneously access better priced quotations across all options exchanges. The new option classes to be added to the Pilot Program would be identified based on national average daily volume in the six calendar months prior to the date the classes are added to the Program.[10] CBOE will work jointly with the SEC to identify the option classes to be added to the Pilot Program and to determine the exact dates the classes will be added, and will

[4] CBOE's rules also provide that for so long as SPDR options (SPY) and options on Diamonds (DIA) participate in the Penny Pilot Program, the minimum increments for Mini-SPX Index Options (XSP) and options on the Dow Jones Industrial Average (DJX), respectively, are $0.01 for all option series below $3, and $0.05 for all option series $3 and above. *See* CBOE Rule 6.42.03.

[5] CBOE has submitted five reports analyzing the Penny Pilot Program. *See* letters from CBOE's President Edward Joyce to Elizabeth King, dated June 1, 2007, November 1, 2007, March 4, 2008, September 4, 2008, and March 9, 2009.

[6] CBOE recognizes that it is difficult to discern the extent to which the reduction in volume in some Pilot classes may be attributable to the Penny Pilot, as opposed to some combination of the Penny Pilot and market conditions overall and/or conditions in a particular security.

[7] *See* letter from Melissa MacGregor, Vice President and Assistant General Counsel, SIFMA, to Elizabeth King dated March 10, 2008.

[8] The proposed roll-out schedule assumes that the new Linkage will be implemented in the 3rd quarter of 2009, and that this proposed rule change is approved on or about July 1, 2009.

[9] The minimum increment breakpoint for XSP options and DJX options similarly would be reduced from $3 to $1. *See* CBOE Rule 6.42.03.

[10] CBOE would use volume data from the Options Clearing Corporation.

submit proposed rule changes pursuant to Section (b)(3)(A) of the Exchange Act announcing the names of the new classes prior to their being added to the Pilot Program in each of the phases mentioned above.[11] Based on the proposed roll-out described above, CBOE anticipates that all equity and ETF option classes would be included in the Penny Pilot Program by early 2010.

CBOE also will submit to the SEC semi-annual reports analyzing the Penny Pilot Program for the following time periods:

- July 1, 2009–December 31, 2009
- January 1, 2010–June 30, 2010
- July 1, 2010–December 31, 2010

CBOE anticipates that its reports will assess the impact of the changes to the minimum increments during the specific time period being analyzed, including, among other things, effects on (i) market participants and customers; (ii) market performance and quality, such as quoted spreads, effective spreads, and the displayed size in the Pilot classes; and (iii) OPRA, vendor and exchange capacity. CBOE's reports will be submitted within one month following the end of the period being analyzed.

CBOE believes that extending and expanding the Penny Pilot Program as proposed is balanced, responsible, and reasonable. It will benefit investors by expanding the Pilot Program in all equity and ETF option classes over a relatively short period of time, which will enable investors to obtain the benefits of penny quoting and trading in those option contracts that customers actually trade. The proposal is balanced in that it recognizes that the Pilot Program, while providing certain clear benefits such as reducing spreads, also has resulted in a significant reduction in liquidity at the BBO, a decrease in volume in some classes, and a significant rise in quote traffic. Moreover, CBOE's plan eliminates investor confusion as to which options are quoted in penny increments, and helps to reduce the growth of quote traffic.

2. Statutory Basis

The Exchange believes the rule proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (''Act'') and the rule and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.[12] Specifically, the Exchange believes that the proposed rule change is consistent with the Section 6(b)(5) Act[13] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest. The Exchange believes that expanding the current Penny Pilot Program as proposed will enable investors to obtain the benefits of penny quoting and trading in those option contracts that customers actually trade. It will also eliminate investor confusion as to which options are quoted in penny increments, and help to reduce the growth of quote traffic.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE 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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. In addition, the Commission seeks comment on the following issues:

1. The Commission requests comment generally on the impact on quote capacity, if any, were the Commission to approve SR–NYSEArca–2009–44, NYSE Arca's proposal to expand the Penny Pilot program to include the next 300 most actively traded, multiply listed options classes over four successive quarters, in addition to this proposed rule change.

2. The Commission requests comment on the impact, if any, to market participants' technological systems and platforms to accommodate the proposed change in breakpoint at $1.00 applied to all option classes.

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 e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2009–031 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2009–031. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the principal office of the self-regulatory organization. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2009–031 and should be submitted on or before June 29, 2009.

[11] CBOE also intends to issue a Regulatory Circular, which will be published on its Web site, identifying these option classes added to the Pilot Program.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–13207 Filed 6–5–09; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60012; File No. SR–FINRA–2008–062]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Adopt FINRA Rule 2267 (Investor Education and Protection) in the Consolidated FINRA Rulebook

May 29, 2009.

I. Introduction

On December 11, 2008, the Financial Industry Regulatory Authority, Inc. (''FINRA'') (f/k/a the National Association of Securities Dealers, Inc. (''NASD'')) filed with the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to require member firms, with certain exceptions, to provide customers with FINRA's Web site address and information regarding FINRA's BrokerCheck program at least once every calendar year. The proposed rule change was published for comment in the **Federal Register** on January 2, 2009.[3] The Commission received two comment letters regarding the proposal.[4] On April 28, 2009, FINRA responded to comments,[5] and on April 29, 2009, FINRA filed Amendment No. 1 to the proposal. This order provides notice of the proposed rule change as modified by Amendment No. 1 and approves the proposed rule change, as amended, on an accelerated basis.

II. Description of the Proposal

FINRA proposed to adopt a rule based on NASD Rule 2280 (Investor Education and Protection), which requires member firms, with certain exceptions, to provide customers with FINRA's Web site address and information regarding FINRA's BrokerCheck program at least once every calendar year.

NASD Rule 2280 currently applies to member firms that carry customer accounts and hold customer funds or securities and requires each member firm to provide its customers with the following information in writing not less than once every calendar year: (1) The ''Public Disclosure Program'' hotline number; (2) the NASD Regulation Web site address; and (3) a statement regarding the availability of an investor brochure that includes information describing the ''Public Disclosure Program.''

As initially proposed, FINRA Rule 2267 would have applied to all member firms, with two general exceptions: a firm that does not have customers, and an introducing firm that is party to a carrying agreement where the carrying member firm complies with the rule. FINRA stated that FINRA Rule 2267 would be broader in scope than NASD Rule 2280 and would apply to member firms that conduct a limited business with customers, such as mutual fund distributors and member firms that deal solely with direct participation programs (''DPPs'').[6] In Amendment No. 1, FINRA modified its proposal in response to the comments to permit a member whose contact with customers is limited to introducing customer accounts that will be held at an entity other than a FINRA member, and thereafter does not carry customer accounts or hold customer funds or securities,[7] to furnish a customer with the information required by the rule at or before the time of the customer's initial purchase, in lieu of once every calendar year.[8]

FINRA stated in the Notice that it would announce the implementation date of the proposed rule change in a Regulatory Notice to be published no later than ninety days following Commission approval.

III. Summary of Comments and Amendment No. 1

The Commission received two comment letters on the proposed rule change.[9] One commenter expressed concern that, without the inclusion of additional disclosure noting that information in BrokerCheck may have been dismissed or expunged, customers may be mislead into believing a broker or other financial professional has not been involved in customer complaints.[10] FINRA responded that it believed this comment was outside the scope of the proposal, and also noted that its Web site describes the contents of a BrokerCheck report and the type of information that is not disclosed through BrokerCheck.[11]

Another commenter stated that the proposed FINRA rule would place a significant burden on member firms, such as itself, that conduct a limited business where customer accounts are introduced to a non-FINRA member product issuer and have no direct contact with the customers after the initial transaction.[12] The commenter stated that these firms do not carry customer accounts or hold customer funds or securities after the initial transaction. The commenter argued that because these firms do not send statements or trade confirmations, they do not have an easy method to provide information to customers, and a special annual mailing for the purposes of complying with the rule as initially proposed could be burdensome and substantial.[13]

FINRA responded that it would amend the proposal to clarify the application of Rule 2267.[14] Specifically, FINRA stated it would codify the interpretive guidance regarding current NASD Rule 2280, which requires these firms to provide the requisite disclosures to customers only at the time of the initial transaction.[15]

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(l).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 59160 (December 23, 2008), 74 FR 152 (''Notice'').

[4] *See* letter to the Commission from Richard Sacks, Investors Recovery Service, dated January 6, 2009 (''IRS Letter''), and letter to Florence E. Harmon, Acting Secretary, Commission, from John S. Watts, Senior Vice President & Chief Counsel, PFS Investments Inc., dated January 26, 2009 (''PFS Letter'').

[5] *See* letter to Elizabeth M. Murphy, Secretary, Commission, from Erika L. Lazar, Senior Attorney, FINRA, Office of General Counsel, dated April 28, 2009 (''Response to Comments'').

[6] These member firms would be required to comply with the rule and provide the disclosures at least once every calendar year. To the extent such firms are parties to a carrying agreement and the member firm that carries the accounts complies on their behalf, these firms would be excepted from the requirements of the proposed rule.

[7] *E.g.,* does not provide account statements or trade confirmations.

[8] In addition, the proposed rule would include references to ''BrokerCheck'' rather than the ''Public Disclosure Program;'' reference the FINRA Web site address rather than the NASD Regulation Web site address; and clarify that the information required under the rule may be provided electronically to customers.

[9] *See supra,* note 4.

[10] *See* IRS Letter.

[11] *See* Response to Comments at 2.

[12] *See* PFS Letter, *supra,* note 4.

[13] *Id.*

[14] *See* Response to Comments at 2.

[15] *See* Response to Comments at 2, citing the *NASD Regulation, Inc. Regulatory and Compliance Alert* (Summer 1999) at 24. *See* Amendment No. 1 which also made non-substantive changes to the rule.

IV. Discussion and Commission Findings

After careful review of the proposed rule change, the comment letters, and FINRA's response to comments, the Commission finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[16] In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,[17] which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

Requiring broker-dealers that carry customer accounts to provide customers at least once each calendar year, or, for certain broker-dealers that are introducing firms as described in the proposed rule, once at the time of initial purchase, with written information regarding the BrokerCheck hotline number, FINRA's Web site address, and a statement regarding the availability of an investor brochure describing BrokerCheck, publicizes the availability of information that helps investors determine whether to conduct, or to continue to conduct, business with a FINRA member or associated person of the member. In addition, the Commission has found NASD Rule 2280, on which the proposed rule is based, to be consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[18]

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[19] for approving the proposal, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of filing of Amendment No. 1 in the **Federal Register**.[20] Amendment No. 1 responded to the comments by tailoring the requirement for firms whose contact with customers is limited to introducing customer accounts to be held directly at an entity other than a FINRA member and thereafter do not carry customer accounts or hold customer funds but that the customer, at the outset, still receives the information. In addition, the firms afforded the exception proposed in Amendment No. 1 do not have any obligation under current NASD Rule 2280, so customers will still be receiving more information than they do presently. Therefore, the Commission believes that it is in the public interest to approve the proposal, as modified by Amendment No. 1, on an expedited basis.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal, as modified by Amendment No. 1, 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 e-mail to *rule-comments@sec.gov.* Please include File No. SR–FINRA–2008–062 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2008–062. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2008–062 and should be submitted on or before June 29, 2009.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[21] that the proposed rule change (SR–FINRA–2008–062), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–13253 Filed 6–5–09; 8:45 am]

BILLING CODE 8010–01–P

[16] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78*o*–3(b)(6).

[18] *See* Securities Exchange Act Release No. 39043 (September 10, 1997), 62 FR 48689 (September 16, 1997)(Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 to the Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Distribution of Information Concerning the Availability of the NASD's Public Disclosure Program).

[19] 15 U.S.C. 78s(b)(2).

[20] Pursuant to Section 19(b)(2) of the Act, 15 U.S.C. 78s(b)(2), the Commission may not approve any proposed rule change, or amendment thereto, prior to the thirtieth day after the date of publication of the notice thereof, unless the Commission finds good cause for so doing.

[21] 15 U.S.C. 78s(b)(2).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60008; File No. SR–FINRA–2009–033]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule Cross-References in FINRA Rules

May 29, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 13, 2009, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to correct or update certain rule cross-references in certain FINRA rules that have been adopted in the consolidated FINRA rulebook.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FINRA is in process of developing a new consolidated rulebook (''Consolidated FINRA Rulebook'').[4] That process involves FINRA submitting to the Commission for approval a series of proposed rule changes over time to adopt rules in the Consolidated FINRA Rulebook. The phased adoption and implementation of those rules necessitates periodic amendments to update rule cross-references and other non-substantive technical changes in the Consolidated FINRA Rulebook.

The proposed rule change would update rule cross-references in FINRA Rules 2114 (Recommendations to Customers in OTC Equity Securities) and 9610 (Application for Exemptions). The former FINRA rule was approved by the Commission on March 19, 2009[5] and will become effective on June 15, 2009. Paragraph (e)(1)(B) of that rule makes reference to FINRA Rule 4512(c); however, the referenced rule has not yet been adopted in the Consolidated FINRA Rulebook, so the proposed rule change would revert the reference to the existing NASD Rule 3110(c)(4)—a non-substantive change. With respect to FINRA Rule 9610, the proposed rule change would update rule cross-references to reflect the adoption of Rule 2114.

FINRA has filed the proposed rule change for immediate effectiveness. The implementation date will be June 15, 2009, the date on which the previously approved rule change will also be implemented.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[6] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes the proposed rule change will provide greater clarity to members and the public regarding FINRA's rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2009–033 on the subject line.

Paper Comments

- Send paper comments in triplicate to Florence E. Harmon, Deputy Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2009–033. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference

[4] The current FINRA rulebook consists of (1) FINRA Rules; (2) NASD Rules; and (3) rules incorporated from NYSE (''Incorporated NYSE Rules'') (together, the NASD Rules and Incorporated NYSE Rules are referred to as the ''Transitional Rulebook''). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE (''Dual Members''). The FINRA Rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, *see* FINRA *Information Notice,* March 12, 2008 (Rulebook Consolidation Process).

[5] *See* Securities Exchange Act Release No. 59605 (March 19, 2009), 74 FR 13283 (March 26, 2009) (Order Approving File No. SR–FINRA–2008–055).

[6] 15 U.S.C. 78*o*–3(b)(6).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. FINRA has satisfied this notice requirement.

Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2009–033 and should be submitted on or before June 29, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–13252 Filed 6–5–09; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60021; File No. SR–Phlx–2009–40]

Self-Regulatory Organizations; NASDAQ OMX PHLX, Inc.; Notice of Filing of Proposed Rule Change as Modified by Amendment No. 1 Thereto Relating to Listing and Trading New Currencies

June 1, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1], and Rule 19b–4 thereunder,[2] notice is hereby given that on May 8, 2009, NASDAQ OMX PHLX, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Exchange filed Amendment No. 1 to the proposal on May 29, 2009.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Phlx rules to: (1) List and trade U.S. dollar-settled foreign currency options on the Brazilian real, Chinese yuan,[4] Danish krone, New Zealand dollar, Mexican peso, Norwegian krone, Russian ruble, South African rand, South Korean won, and Swedish krona (the listed currencies are together known as the ''New Currencies'')[5]; (2) clarify definitions regarding the Currencies, (3) establish position and exercise limits for the Currencies; (4) clarify the uniform pricing convention (methodology) for all Currencies; and (5) delete obsolete and out of use references regarding foreign currency products and processes.

The Exchange also proposes to amend Phlx Option Floor Procedure Advices (''OFPAs'' or ''Advices'') to harmonize Exchange Advices and rules.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLX/Filings/*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Phlx rules[6] to: Expand the Exchange's current product offering to include options on the New Currencies; clarify certain existing Exchange rules relating to Currencies; establish position limits for Currencies; and clarify the uniform pricing convention (methodology) for options on Currencies. In doing so, the Exchange will delete obsolete and out of use references regarding foreign currency products and processes. The purpose is also to conform existing Advices[7] to the rules as amended.

Background

In January 2007, the Exchange listed and began trading U.S. dollar-settled FCOs on the British pound and the Euro.[8] In July 2007, the Exchange listed and began trading U.S. dollar-settled FCOs on the Australian dollar, Canadian dollar, Swiss franc, and Japanese yen.[9] U.S. dollar-settled FCOs continue being traded electronically over the Exchange's options trading platform, Phlx XL.[10] Additionally, through the spring of 2007 the Exchange traded, through open outcry, physical delivery options on foreign currencies.[11]

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission notes that Amendment No.1 replaces and supersedes the initial filing in its entirety.

[4] The Chinese yuan may also be known as renminbi (similarly to the British pound and sterling).

[5] Options on the following U.S. dollar-settled foreign currencies are currently listed and traded on the Exchange: the Australian dollar, the Euro, the British pound, the Canadian dollar, the Swiss franc, and the Japanese yen (together, the ''FCOs'') (the New Currencies and FCOs are together known as the ''Currencies''). The product specifications for the U.S. dollar-settled FCOs, which are not altered by or as a result of this filing, may be found at *http://www.nasdaqtrader.com/Micro.aspx?id=phlxwcoproductspecs.*

[6] Rules 1000 (Applicability, Definitions and References), 1001 (Position Limits), 1002 (Exercise Limits), 1009 (Criteria for Underlying Securities), 1012 (Series of Options Open for Trading), 1014 (Obligations and Restrictions Applicable to Specialists and Registered Options Traders), 1016 (Block Transactions in Physical Delivery Foreign Currency Options), 1027 (Discretionary Accounts), 1033 (Bids and Offers—Premium), 1034 (Minimum Increments), 1044 (Delivery and Payment), 1049 (Communications to Customers), 1057 (U.S. Dollar-Settled Foreign Currency Option Closing Settlement Value), 1063 (Responsibilities of Floor Brokers), 1069 (Customized Foreign Currency Options), 1070 (Customer Complaints), 1079 (FLEX Index, Equity and Currency Options), 1089 (Dealing Directly With Specialist and Registered Option Trader in Foreign Currency Options), and 1092 (Obvious Errors and Catastrophic Errors).

[7] Option Floor Procedure Advices B–7 (Time Priority of Bids/Offers in Foreign Currency Options (Physical Delivery Foreign Currency Option Only)), C–2 (Options Floor Broker Management System), F–6 (Options Quote Parameters), F–17 (FCO Trades to be Effected in the Pit (Physical Delivery Foreign Currency Option Only)), F–18 (FCO Expiration Months and Strike Prices—Selective Quoting Facility (Physical Delivery Foreign Currency Option Only)), and F–20 (Quoting and Trading Customized Foreign Currency Options (Foreign Currency Option Only)).

[8] *See* Securities Exchange Act Release No. 54989 (December 21, 2006), 71 FR 78506 (December 29, 2006) (SR–Phlx–2006–34). In approving the listing and trading of U.S. dollar-settled FCOs on the British pound and the Euro, the approval order stated that the listing and trading of additional U.S. dollar-settled FCOs on other foreign currencies will require the Exchange to file additional proposed rule changes on Form 19b–4.

[9] *See* Securities Exchange Act Release No. 56034 (July 10, 2007), 72 FR 38853 (July 16, 2007) (SR–Phlx–2007–34).

[10] *See* Securities Exchange Act Release No. 49832 (June 8, 2004), 69 FR 33442 (June 15, 2004) (SR–Phlx–2003–59)(approving Phlx XL). *See also* Release No. 59995 (May 28, 2009) SR–Phlx–2009–32 (approving Phlx XL II). The Exchange is rolling out a new trading platform.

[11] Physical delivery options, so named because settlement could involve delivery of the underlying currency (as opposed to cash for U.S. dollar-settled

Continued

The Exchange proposes to amend Phlx rules and Advices to enable it to list and trade, over Phlx XL, options on ten New Currencies: the Mexican peso, the Brazilian real, the Chinese yuan, the Danish krone, the New Zealand dollar, the Norwegian krone, the Russian ruble, the South African rand, the South Korean won, and the Swedish krona.[12] These New Currencies will be listed and traded similarly to U.S. dollar-settled FCOs that are currently traded on the Exchange, and will use existing Exchange rules and processes subject to the rule changes proposed herein.

The changes proposed herein regarding the methodology or convention of pricing options on foreign currencies reflect pricing that is similar in nature to what is being used by other markets that trade currency options.[13]

Definitions

The Exchange proposes to clarify in its Rule 1000 several definitions in respect of foreign currencies. First, the Exchange proposes to add ten New Currencies to the six that are currently listed in Sections 13 (Foreign Currency) and 15 (Unit of Underlying Foreign Currency) of Rule 1000.[14]

Second, the Exchange proposes to clarify the definition of spot price in Section 16 (Spot Price) of Rule 1000 by renaming it Exchange Spot Price and indicating that, to establish the Exchange Spot Price, the Exchange will apply an appropriate multiplier to the cash market spot price that it receives from a price quotation dissemination system chosen by the Exchange.[15] The multipliers will be applied by the Exchange so that Exchange Spot Prices would look similar to index option prices.[16] Up-front application of appropriate multipliers to cash market spot prices to get Exchange Spot Prices more accurately reflects how options on foreign currencies are actually priced by exchanges that list and trade such products (currently ISE and Phlx).[17]

The Exchange will continue to disseminate Exchange Spot Prices and other FCO-related data such as, for example, U.S. dollar-settled FCO settlement values and prices (Exchange Spot Prices) over the facilities of a major public data vendor, such as NASDAQ OMX or one or more other (NASDAQ OMX-owned or unrelated) major market data vendors.[18]

Pricing of Options

Consistent with application by the Exchange of appropriate multipliers to each currency Exchange Spot Price, the Exchange proposes to amend Rules 1012, 1014, 1033, 1034, and 1092, and OFPA F–6 to clarify the uniform foreign currency option pricing convention and thereby greatly simplify the pricing of such options. The uniform pricing convention will carry through all of the Exchange's rules relating to foreign currency options.

Rule 1012, Commentary .06 currently states that, assuming certain spot price levels, the Exchange may initially list exercise strike prices of the Euro in the range of $.9500 (expressed as $95) to $1.0550 (expressed as $105.50). That is, options on foreign currencies are currently priced in Commentary .06 without application of a multiplier and are followed by an ''expressed as'' price. The Exchange proposes to clarify Commentary .06 to reflect how options are actually priced by applying an appropriate modifier up-front to the price. As such, there would be no need for the Exchange to follow FCO prices of several decimal places with ''expressed as'' prices, and the above-noted example in Commentary .06 would state that the Exchange may initially list exercise strike prices of the Euro in the range of $95 to $105.50.

The Exchange proposes to modify Rule 1012 such that Exchange Strike Prices may be listed within a 40 percent band (20 percent above and 20 percent below) around Exchange Spot Prices at fifty cent ($.50) intervals. This would result in no more than eighty-one strike prices available for trading.[19] Regarding long-term options, the Exchange proposes to clarify that the Exchange may list up to ten options series having up to thirty-six months from the time they are listed until expiration.[20] The Exchange proposes to establish that FLEX currency options will similarly

FCOs), have traded on the Exchange since 1982 but are no longer listed and traded. All open interest in physical delivery options was traded out or expired by the end of March 2007 and only U.S. dollar-settled FCOs now trade on the Exchange.

[12] CME Group Inc. (''CME''), formerly Chicago Mercantile Exchange Holdings Inc., lists and trades futures contracts on many of the New Currencies that are proposed to be listed and traded by the Exchange (e.g. the Mexican peso, the New Zealand dollar, the Norwegian krone, the Russian ruble, the Swedish krona, the Brazilian real, the Chinese renminbi, the South African rand, and the South Korean won).

[13] The International Securities Exchange, LLC (''ISE''), for example, also lists and trades options on certain foreign currencies (including the Australian dollar, the Euro, the British pound, the Canadian dollar, the Swiss franc, and the Japanese yen) that are not fungible with Phlx's U.S. dollar-settled FCOs. *See* Exchange Act Release No. 55575 (April 3, 2007), 72 FR 17963 (April 10, 2007) (SR–ISE–2006–59). ISE, like Phlx, applies multipliers to currency spot prices so that ISE's currency prices tend to look like the prices of index and other options.

[14] The Exchange will similarly add the New Currencies throughout its rules. *See, e.g.,* Rules 1009, 1057, and 1079.

[15] *See* Securities Exchange Act Release No. 58915 (November 6, 2008), 73 FR 67916 (November 17, 2008) (indicating, among other things, that Quote Media, Inc. provides spot prices to The NASDAQ OMX Group, Inc. (''NASDAQ OMX'')). Proposed section 16 of Rule 1000 defines Exchange Spot Price as follows: The term ''Exchange Spot Price'' in respect of an option contract on a foreign currency means the cash market spot price, for the sale of one foreign currency for another, quoted by various foreign exchange participants for the sale of a single unit of such foreign currency for immediate delivery that is calculated from the foreign currency price quotation reported by the foreign currency price quotation dissemination system selected by the Exchange, to which an appropriate multiplier is applied. The multiplier(s) will be: 100 for the British pound, the Euro, the Swiss Franc, the Canadian dollar, the Australian dollar, the Brazilian real, and the New Zealand dollar; 1,000 for the Chinese yuan, the Danish krone, the Mexican peso, the Norwegian krone, the South African rand, and the Swedish krona; 10,000 for the Japanese yen and the Russian ruble; and 100,000 for the South Korean won.

[16] Exchange Spot Prices will generally have two decimal places. As an example, the Exchange Spot Price for the Japanese yen, with up-front application of a multiplier of 10,000, may be 80.22—which reflects how index (and other) options are operationally priced by the Exchange, ISE, and other markets that trade options on foreign currencies. In contrast, using the old pricing methodology (without up-front application of a multiplier) the above-noted spot price for the Japanese yen would be .008022 (expressed as 80.22). Moreover, Exchange Spot Prices and what are known as modified spot prices (that is, spot prices that do not incorporate modifiers but add them at a later time) are the same values. *See* Securities Exchange Act Release No. 57575 (March 28, 2008), 73 FR 18310 (April 3, 2008)(SR–Phlx–2008–06)(describing, among other things, modified spot prices).

[17] NYSE Arca also trades options on certain foreign currencies that are listed on ISE.

[18] *See* note 10 of Securities Exchange Act Release No. 59611 (March 20, 2009), 74 FR 13498 (March 27, 2009) (SR–Phlx–2009–22) (notice of filing and immediate effectiveness).

[19] The Exchange may initially list exercise strike prices for each expiration of U.S. dollar-settled options on currencies within a 40 percent band around the current Exchange Spot Price at fifty cent ($.50) intervals. Thus, if the Exchange Spot Price of the Euro were at $100.00, the Exchange would list strikes in $.50 intervals up to $120.00 and down to $80, for a total of eighty-one strike prices available for trading. As the Exchange Spot Price for U.S. dollar-settled FCOs moves, the Exchange will list new strike prices that, at the time of listing, do not exceed the Exchange Spot Price by more than 20 percent and are not less than the Exchange Spot Price by more than 20 percent. For example, if at the time of initial listing, the Exchange Spot Price of the Euro is at $100.00, the strike prices the Exchange will list will be $80.00 to $120.00. If the Exchange Spot Price then moves to $105.00, the Exchange may list additional strikes at the following prices: $105.50 to $126.00. Proposed Commentary .06 to Rule 1012.

[20] Long-Term Series. The Exchange may list, with respect to any U.S. dollar-settled foreign currencies, options having up to three years from the time they are listed until expiration. There may be up to ten options series, options having up to thirty-six months from the time they are listed until expiration. There may be up to six additional expiration months. Strike price interval, bid/ask differential and continuity rules shall not apply to such options series until the time to expiration is less than nine months. Proposed Rule 1012(a)(iii)(C).

have expiration dates of up to three years.[21]

Rule 1014, like Rule 1012, is proposed to be amended to reflect uniform FCO pricing that no longer requires indicating bid/ask prices with many decimal places that are also expressed as different, index option-like values after appropriate multipliers are applied.[22]

Rule 1033, which applies to all Currencies, is proposed to be amended to clarify that premiums on all U.S. dollar-settled FCOs will be calculated in the same way for all options. The Exchange proposes to delete unnecessary rule text that indicates that the first two decimal places will be omitted for bid and offer quotations for the British pound, the Swiss franc, the Canadian dollar, the Australian dollar, and the Euro, and the first four decimal places will be omitted from bid and offer quotations for the Japanese yen. The Exchange also proposes to provide a clear example of how premiums will be calculated on foreign exchange options: E.g., a bid of ''3.25'' for a premium on a $170 strike price option on the British pound shall represent a bid to pay $325 per option contract.[23]

Rule 1034 currently prescribes the minimum trading increments for all U.S. dollar-settled FCOs.[24] This rule, which will apply to the New Currencies as well, is proposed to be amended to clarify that minimum price increments for all currencies will remain at $.01, but without the need to indicate different minimum price increments for different currencies that are thereafter each ''expressed as $.01''.[25]

Rule 1092 and OFPA F–6 are likewise proposed to be amended to clarify that option prices will no longer be indicated in terms of several decimal places that are then expressed as different values.[26]

Position Limits

Rule 1001 establishes position limits for FCOs at 200,000 on the same side of the market relating to the same underlying currency.[27] The Exchange proposes to amend Rule 1001 to establish three levels of position limits for FCOs. Specifically, the Exchange proposes the following position limits:

(1) 300,000 contracts for options on: the Mexican peso, the Brazilian real, the Chinese yuan, the Danish krone, the Norwegian krone, the Russian ruble, the South African rand, the South Korean won, the Swedish krona;

(2) 600,000 contracts for options on: the British pound, the Swiss franc, the Canadian dollar, the Australian dollar, the Japanese yen, and the New Zealand dollar; and

(3) 1,200,000 contracts for options on the Euro.[28]

The position limits proposed by the Exchange are similar to those used by other markets that trade foreign currency options.[29]

The Exchange also proposes to eliminate from Rules 1001 and 1079 the practice of fractional counting of U.S. dollar-settled foreign currency option contracts for position limit purposes. Fractional counting was needed to establish position limit equivalency between the Exchange's physical delivery option contracts and U.S. dollar-settled option contracts, which had different sized contracts on the same underlying currencies.[30] Because physical delivery foreign currency options are no longer traded on the Exchange, however, it is no longer necessary to have fractional counting differentiations in Rule 1001 and they are being eliminated.

Rule 1057 currently provides for the determination of closing settlement values for options on the six foreign currency options that trade on the Exchange. Rule 1079 currently provides for the similar determination of closing settlement values for FLEX foreign currency options that trade on the Exchange. In both rules, the closing settlement price for U.S. dollar-settled FCOs is the Spot Price at 12:00:00 Eastern Time (noon) on the last trading day prior to expiration. [31] Rules 1057 and 1079 are updated commensurate with the clarification of the pricing convention in this filing. In particular, Rules 1057 and 1079 are proposed to be amended to add the New Currencies and reflect that the Exchange Spot Price per Rule 1000(b)16 will be the settlement price.[32] The Exchange believes that these modifications would reflect the proper methodologies for calculating closing settlement values for options on its foreign currency products. The rules will continue to permit the Exchange to apply alternative closing settlement values as a result of extraordinary circumstances.

In addition to the specific proposed rule changes, options on the New Currencies would be subject to the same rules and processes that now apply to existing options on foreign currencies.

[21] *See* proposed Rule 1079(a)(6).

[22] Options on U.S. dollar-settled FCO. With respect to all U.S. dollar-settled FCO bidding and/or offering so as to create differences of no more than $.25 between the bid and the offer for each option contract for which the prevailing bid is less than $2.00; no more than $.40 where the prevailing bid is $2.00 or more but less than $5.00; no more than $.50 where the prevailing bid is $5.00 or more but less than $10.00; no more than $.80 where the prevailing bid is $10.00 or more but less than $20.00; and no more than $1.00 where the prevailing bid is $20.00 or more. Proposed 1014(c)(i)(A). The Exchange proposes similar changes to OFPA F–6.

[23] Rule 1033 currently states that the first two decimal places shall be omitted from all bid and offer quotations for the British pound, the Swiss franc, the Canadian dollar, the Australian dollar, and the Euro, and the first four decimal places shall be omitted from all bid and offer quotations for the Japanese yen (e.g., a bid of ''9.2'' for an option contract on the British pound shall represent a bid to pay $.0920 per unit of underlying foreign currency—i.e., a premium of $2,875—for an option contract having a unit of trading of 31,250 pounds; a bid of .44 for an option contract on the Euro shall represent a bid to pay .0044 per unit of underlying foreign currency—i.e. a premium of $275—for an option contract having a unit of trading of 62,500 Euros; a bid of ''1.6'' for an option contract on the Japanese yen shall represent a bid to pay $.000160 per unit of underlying foreign currency—i.e., a premium of $1,000—for an option contract having a unit of trading of 6,250,000 yen).

[24] Rule 1034 currently states that the minimum increments for options on various currencies using ''expressed as'' pricing (e.g. $.0001 (expressed as $.01) for the British pound and $.000001 (expressed as $.01) for the Japanese yen).

[25] All options on foreign currencies where the underlying foreign currency is not the U.S. dollar shall have a minimum increment of $.01. Proposed Rule 1034.

[26] Proposed Rule 1092(a)(i) indicates, for example:

Theoretical price—Below $2; Minimum amount—$.25.

Whereas, current Rule 1092(a)(i) indicates:

Theoretical price—Below $ .02 (expressed as 2); Minimum amount—$.0025 (expressed as .25).

[27] Rule 1001 currently also indicates position limits of 100,000 contracts for options on the Mexican peso traded as a customized option per Rule 1069. Because Rule 1069 and other references to customized options, among them options on the Mexican peso, are deleted in this filing, the 100,000 contact position limit on the Mexican peso will be deleted.

[28] *See* proposed Commentary .05(b) to Rule 1001.

[29] *See, e.g.,* Securities Exchange Act Release No. 55575 (April 3, 2007), 72 FR 17963 (April 10, 2007) (SR–ISE–2006–59) (order approving, among other things, proposal to establish 1,200,000, 600,000, and 300,000 contract position limits for foreign currency options).

[30] U.S. dollar-settled option contracts generally were smaller than physically traded option contracts.

[31] The closing settlement value was changed from the Noon Buying Rate received from the Federal Reserve Bank of New York to the spot price at 12:00:00 Eastern Time (noon) on the last trading day prior to expiration. *See* Securities Exchange Act Release No. 58915 (November 6, 2008), 73 FR 67916 (November 17, 2008) (SR–Phlx–2008–68) (notice of filing and immediate effectiveness).

[32] The closing settlement value for the U.S. dollar-settled FCO on the Australian dollar, the Euro, the British pound, the Canadian dollar, the Swiss franc, the Japanese yen, the Mexican peso, the Brazilian real, the Chinese yuan, the Danish krone, the New Zealand dollar, the Norwegian krone, the Russian ruble, the South African rand, the South Korean won, and the Swedish krona shall be the Exchange Spot Price at 12:00:00 Eastern Time (noon) on the last trading day prior to expiration unless the Exchange determines to apply an alternative closing settlement value as a result of extraordinary circumstances. Proposed Rule 1057. *See also* proposed Rule 1079.

Systems Capacity and Surveillance

The Exchange represents that it has the necessary systems capacity to support new options series that will result from the introduction of options on the New Currencies. The Exchange represents that it has an adequate surveillance program in place for trading U.S. dollar-settled FCOs. The Exchange will apply the same surveillance program to the New Currencies.[33]

Housekeeping Changes

Finally, the Exchange proposes technical, housekeeping rule changes to delete obsolete and out of use references, rules and Advices regarding foreign currency products and processes. These include references to cross-rate, physical delivery, and customized foreign currency options; currency and currency index warrants; currency products that are no longer traded; and Regulatory Services Post, which no longer exist.[34]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[35] in general, and furthers the objectives of Section 6(b)(5) of the Act[36] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by offering investors the ability to invest in options on the New Currencies and by clarifying and simplifying existing rules relating to the pricing of currency options including expression of strike, bid and ask, spot, and settlement prices.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

The Exchange has requested accelerated approval of this proposed rule change prior to the 30th day after the date of publication of notice in the **Federal Register**. The Commission is considering granting accelerated approval of the proposed rule change at the end of a 15-day comment period.

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 e-mail to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2009–40 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2009–40. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–Phlx–2009–40 and should be submitted on or before June 23, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[37]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–13210 Filed 6–5–09; 8:45 am]

BILLING CODE 8010–01–P

[33] The Exchange is a member of the Intermarket Surveillance Group (''ISG'') under the Intermarket Surveillance Group Agreement, dated June 20, 1994, and may obtain trading information via the ISG from other exchanges who are members or affiliates of the ISG. The members of the ISG include all of the U.S. registered stock and options markets. The ISG members work together to coordinate surveillance and investigative information sharing in the stock and options markets. In addition, the major futures exchanges are affiliated members of the ISG, which allows for the sharing of surveillance information for potential intermarket trading abuses.

[34] *See, e.g.,* Rules 1000 Sections 14, 15, 21, 38, and 40; 1001, 1002, 1009, 1034 and 1069 (cross-rate foreign currency options); 1012, 1014, 1016, 1034, 1044 and 1063 (physical delivery foreign currency options); 1001, 1009, 1033, 1034, 1063, 1069 and 1079 (customized foreign currency options); 1049, 1070 and 1089 (currency warrants); and 1079 (Regulatory Services Post). *See also* OFPAs B–7, F–17 and F–18 (physical delivery foreign currency options); and C–2 and F–20 (customized foreign currency options). *See also* Rule 1014 correcting typographical errors.

[35] 15 U.S.C. 78f(b).

[36] 15 U.S.C. 78f(b)(5).

[37] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60020; File No. SR–CBOE–2009–034]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Trades for Less Than $1

June 1, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 27, 2009, the Chicago Board Options

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Exchange, Incorporated (''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to extend its program that allows transactions to take place at a price that is below $1 per option contract until June 1, 2010. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.org/Legal*), at the Exchange's Office of the Secretary and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

An ''accommodation'' or ''cabinet'' trade refers to trades in listed options on the Exchange that are worthless or not actively traded. Cabinet trading is generally conducted in accordance with the Exchange Rules, except as provided in Exchange Rule 6.54, *Accommodation Liquidations (Cabinet Trades)*, which sets forth specific procedures for engaging in cabinet trades. Rule 6.54 currently provides for cabinet transactions to occur via open outcry at a cabinet price of $1 per option contract in any options series open for trading in the Exchange, except that the Rule is not applicable to trading in option classes participating in the Penny Pilot Program. Under the procedures, bids and offers (whether opening or closing a position) at a price of $1 per option contract may be represented in the trading crowd by a Floor Broker or by a Market-Maker or provided in response to a request by a PAR Official/OBO, a Floor Broker or a Market-Maker, but must yield priority to all resting orders in the PAR Official/OBO cabinet book (which resting cabinet book orders may be closing only). So long as both the buyer and the seller yield to orders resting in the cabinet book, opening cabinet bids can trade with opening cabinet offers at $1 per option contract.

The Exchange has temporarily amended the procedures through May 29, 2009 to allow transactions to take place in open outcry at a price of at least $0 but less than $1 per option contract.[5] These lower priced transactions are traded pursuant to the same procedures applicable to $1 cabinet trades, except that (i) bids and offers for opening transactions are only permitted to accommodate closing transactions in order to limit use of the procedure to liquidations of existing positions, and (ii) the procedures are also available for trading in option classes participating in the Penny Pilot Program.[6] The Exchange believes that allowing a price of at least $0 but less than $1 better accommodates the closing of options positions in series that are worthless or not actively traded, particularly due to recent market conditions which have resulted in a significant number of series being out-of-the-money. For example, a market participant might have a long position in a call series with a strike price of $100 and the underlying stock might now be trading at $30. In such an instance, there might not otherwise be a market for that person to close-out the position even at the $1 cabinet price (*e.g.,* the series might be quoted no bid).[7]

The purpose of the instant rule change is to extend the operation of these temporary procedures through June 1, 2010, so that the procedures can continue without interruption while CBOE considers whether to seek permanent approval of the temporary procedures.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act [8] and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.[9] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [10] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that allowing for liquidations at a price less than $1 per option contract better facilitates the closing of options positions that are worthless or not actively trading.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release Nos. 59188 (December 30, 2008), 74 FR 480 (January 6, 2009)(SR–CBOE–2008–133)(adopting the amended procedures on a temporary basis through January 30, 2009) and 59331 (January 30, 2009), 74 FR 6333 (February 6, 2009)(extending the amended procedures on a temporary basis through May 29, 2009).

[6] Currently the $1 cabinet trading procedures are limited to options classes traded in $0.05 or $0.10 standard increment. The $1 cabinet trading procedures are not available in Penny Pilot Program classes because in those classes an option series can trade in a standard increment as low as $0.01 per share (or $1.00 per option contract with a 100 share multiplier). Because the temporary procedures allow trading below $0.01 per share (or $1.00 per option contract with a 100 share multiplier), the procedures are available for all classes, including those classes participating in the Penny Pilot Program.

[7] As with other accommodation liquidations under Rule 6.54, transactions that occur for less than $1 are not to be disseminated to the public on the consolidated tape. In addition, as with other accommodation liquidations under Rule 6.54, the transactions are exempt from the Consolidated Options Audit Trail (''COATS'') requirements of Exchange Rule 6.24, *Required Order Information*. However, the Exchange maintains quotation, order and transaction information for the transactions in the same format as the COATS data is maintained. In this regard, all transactions for less than $1 must be reported to the Exchange following the close of each business day. The rule also provides that transactions for less than $1 will be reported for clearing utilizing forms, formats and procedures established by the Exchange from time to time. In this regard, the Exchange initially intends to have clearing firms directly report the transactions to The Options Clearing Corporation (''OCC'') using OCC's position adjustment/transfer procedures. This manner of reporting transactions for clearing is similar to the procedure that CBOE currently employs for on-floor position transfer packages executed pursuant to Exchange Rule 6.49A, *Transfer of Positions*.

[8] 15 U.S.C. 78s(b)(1).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule does not (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission,[11] the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6) thereunder.[13]

Under Rule 19b–4(f)(6) of the Act,[14] a proposal does not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative date so that the pilot may continue without interruption while the Exchange considers whether to seek permanent approval of the temporary procedures. The Exchange believes that acceleration of the operative date will continue to allow for the orderly closing of option positions that are worthless or not actively traded. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, and thus designates the proposal as operative upon filing.[15]

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2009–034 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2009–034. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–CBOE–2009–034 and should be submitted on or before June 29, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–13209 Filed 6–5–09; 8:45 am]

BILLING CODE 8010–01–P

[11] The Exchange has fulfilled this requirement.

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] *Id.*

[15] For purposes only of waiving the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f). *See also* 17 CFR 200.30–3(a)(59).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60019; File No. SR–BATS–2009–018]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Change the Criteria for Becoming a Member of the Nominating Committee

June 1, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 28, 2009, BATS Exchange, Inc. (''BATS'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Article VI, Section 2 of the Amended and Restated By-Laws of BATS Exchange, Inc. (the ''By-Laws'').

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Exchange's By-Laws, specifically Article VI, Section 2, for the purpose of allowing additional Directors to serve on the Nominating Committee. As currently written, the By-Laws allow only one Director in his or her final year of service on the Board to serve on the Nominating Committee, and that Director must be a Non-Industry Director. The Exchange proposes an amendment to Article VI, Section 2 to allow any Director whose class [5] is not being considered for nomination and election in the coming year to serve on the Nominating Committee. The proposed amendment would expand the number of current Directors eligible for participation on the Nominating Committee, and allow more Directors to participate in the Nominating Committee and thereby be more closely involved in the process of identifying candidates to serve as Directors.[6]

The Exchange believes that more than one Director, including Industry Directors, should be permitted to serve on the Nominating Committee and that the current By-Laws, which allow only a single Non-Industry Director to serve on the Nominating Committee in his or her last year of service, is unduly restrictive. The Exchange is proposing to retain the requirement that the number of Non-Industry members of the Nominating Committee shall equal or exceed the number of Industry members on the Nominating Committee and believes that this requirement is sufficient to ensure adequate representation of Industry and Non-Industry interests.

In addition, as proposed, the Exchange would prohibit any Director from serving on the Nominating Committee if that Director's class is up for reelection, unless that Director is in his or her final year of service and is not standing for reelection. The Exchange believes that this prohibition would sufficiently prevent a Director from participating in nominating himself or herself to the Board. At the same time, the Exchange's proposal is less restrictive than the current prohibition and would, therefore, enable a larger number of current Directors to consider participation on the Nominating Committee.

The Exchange has proposed these changes because it believes that Directors are particularly well-suited to nominate Director candidates due to the first-hand knowledge they gain through service on the Board. In particular, Directors serving on the Nominating Committee will be qualified to evaluate the strengths and weaknesses of the Board and find other candidates for Director that best fit the needs of the Board. Additionally, the experience brought by Directors to the Nominating Committee will be an asset to any non-Director members of the Nominating Committee through the sharing of knowledge and information about the operations of the Exchange and the Board.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [7] in general, and furthers the objectives of: (1) Section 6(b)(1) of the Act,[8] which requires a national securities exchange to be so organized and have the capacity to carry out purposes of the Act and to enforce compliance by its members and persons associated with its members with the provisions of the Act; (2) Section 6(b)(3) of the Act,[9] which requires that the rules of a national securities exchange assure the fair representation of its members in the selection of its directors and administration of its affairs, and provides that one or more directors shall be representative of issuers and investors and not be associated with a member of the exchange, broker or dealer (the ''fair representation requirement''); and Section 6(b)(5) of the Act,[10] in that it is designed, among other things, 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 a national market system, and, in general, to protect investors and the public interest.

Specifically, Members will continue to be represented on the Board and on key standing committees. Further, the Exchange's proposal does not alter the existing compositional requirements of the Board, which provide a balance between Industry, Member, Non-Industry, and Independent representatives, nor does the proposal alter the existing compositional balance between Industry and Non-Industry representatives on the Nominating Committee.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change is non-controversial and does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6) thereunder.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may

[5] As described in Article III, Section 3(b) of the By-Laws, Directors are divided into three classes and serve staggered terms.

[6] The proposed rule change would have no effect on the process of selecting Member Representative Directors as described in Article III, Section 4 and Article VI, Sections 1 and 3 of the By-Laws.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78(b)(1).

[9] 15 U.S.C. 78(b)(3).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. BATS has met this requirement.

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 e-mail to *rule-comments@sec.gov.* Please include File No. SR–BATS–2009–018 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BATS–2009–018. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BATS–2009–018 and should be submitted on or before June 29, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–13208 Filed 6–5–09; 8:45 am]

BILLING CODE 8010–01–P

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60014; File No. SR–ISE–2009–27]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change To Adopt Rules To Implement the Options Order Protection and Locked/Crossed Market Plan

June 1, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 11, 2009, the International Securities Exchange, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE proposes to adopt rules to implement the Options Order Protection and Locked/Crossed Market Plan (the ''Plan''). The text of the proposed rule change is available on the ISE's Web site (*http://www.ise.com*), at the principal office of the ISE, 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt rules to implement the Plan. These rules will replace current Chapter 19 of the ISE's rules in their entirety. The proposed rules also will amend various other rules to accommodate the Plan.

Background to the Plan and the Implementing Rules

The ISE filed the current version of the Plan on November 7, 2008.[3] The Plan would replace the current Plan for the Purpose of Creating and Operating an Intermarket Option Linkage (''Old Plan''). The Old Plan requires its participant exchanges to operate a stand-alone system or ''Linkage'' for sending order-flow between exchanges to limit trade-throughs. The Options Clearing Corporation (''OCC'') operates the Linkage system. The Linkage rules provide for unique types of Linkage orders, with a complicated set of requirements as to who may send such orders and under what conditions.

While the Linkage largely has operated satisfactorily, it is under significant strain. When the Commission approved the Linkage Plan in 2000, average daily volume (''ADV'') in the options market was approximately 2.6 million contracts across all exchanges. Now the ADV has increased to more than 10 million contracts, putting added strain on the ability of market makers to comply with the complex Linkage rules. At the same time, the options markets have been moving towards quoting in pennies, and are quoting in pennies options representing over half the total industry volume. This greatly increases the number of price changes in an option, giving rise to greater chances of trade-throughs and missing markets as market makers send Linkage orders and have to wait for a response.

Experience in the equities markets shows that there is a more efficient way to provide price protection in options. When first implemented, the Linkage represented a vast improvement over the then-current equities price-protection system, which depended on the operation of the Intermarket Trading System (''ITS''). The plan governing ITS imposed long waiting times for filling ITS commitments and a cumbersome method for satisfying trade-throughs. Learning from the shortcomings of ITS, the options Linkage has shorter waiting periods and more efficient trade-through protections.

The equity price-protection mechanisms have now leapfrogged the options Linkage. By adopting Regulation NMS in 2005 the Commission

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The November 7th filing was Amendment No. 3 to the Plan. The ISE initially filed the Plan on September 12, 2007, filed Amendment No. 1 on December 10, 2007, and filed Amendment No. 2 on April 16, 2008.

effectively terminated ITS, replacing it with a rules-based price-protection system.[4] The key to Regulation NMS's price-protection provisions is the Intermarket Sweep Order, or ISO. Each equity exchange must adopt rules ''reasonably designed to prevent trade-throughs.'' [5] Exempted from trade-through liability is an ISO, which is an order a member sends to an exchange displaying a price inferior to the national best bid and offer (''NBBO''), while simultaneously sending orders to trade against the full size of any other exchange that is displaying the NBBO.[6]

The Regulation NMS rules-based price-protection system is working well. It requires neither a central linkage mechanism nor a complex set of operating rules. It also has eliminated the need for achieving unanimity to change even the most minor aspects of a linkage mechanism. A simple prohibition against most trade-throughs, coupled with the ISO mechanism, has given the equities markets a straight-forward system to provide customers with price protection in a fast-moving, high-volume market that is quoted in pennies. The ISE and the other options exchange participants in the Plan intend for the Plan, and the implementing rules, to bring the efficiencies of Regulation NMS to the options market.

Operation of the Plan

The Plan effectively would apply the Regulation NMS price-protection provisions to the options markets. Similar to Regulation NMS, the Plan would require participants to adopt rules ''reasonably designed to prevent Trade-Throughs,'' while exempting ISOs from that prohibition.[7] The definition of an ISO is essentially the same as under Regulation NMS,[8] and there are a number of additional exceptions to the trade-through prohibition. Like Regulation NMS,[9] the Plan requires participating exchanges to take reasonable steps to establish that ISOs meet the requirements of the Plan.

With respect to locked and crossed markets, similar to Regulation NMS, the Plan requires its participants to adopt, maintain and enforce rules requiring members: To avoid displaying locked and crossed markets; to reconcile such markets; and to prohibit members from engaging in a pattern or practice of displaying locked and crossed markets.[10] With respect to locked markets, the Plan differs from Regulation NMS in that it specifically permits exceptions to the locked market prohibitions ''as contained in the rules of a Participant approved by the Commission.'' [11]

Description of the Implementing Rules

This proposed rule change would delete the ISE's current Linkage rules in Chapter 19 of the ISE's rule book and replace those rules with a new Chapter 19 entitled ''Order Protection; Locked and Crossed Markets.'' New Chapter 19 contains the following rules:

Rule 1900—Definitions

This proposed rule incorporates all the operative definitions from the Plan into the ISE's rulebook. With one exception, the parties to the Plan derived all such definitions either from the Old Plan [12] or Regulation NMS.[13] The one exception is the definition of ''complex trade'' in Rule 1900(d). A ''complex trade'' is exempt from trade-through liability. The exemption in the Old Plan simply refers to complex trades ''as that term may be defined by the Operating Committee from time to time.'' Based on that provision, the ISE adopted current Rule 1900(3), which is substantially identical among all the options exchanges. We propose to carry that definition into new Chapter 19 unchanged.

Rule 1901—Order Protection

Paragraph (a) of Rule 1901 provides that, subject to specified exceptions, ISE Members shall not effect trade-throughs. Paragraph (b) provides for the following trade-through exceptions:

- *System Issues:* Rule 1901(b)(1) implements Section 5(b)(i) of the Plan by establishing an exception for trade-throughs due to system-failures. This is akin to the exception in Regulation NMS for equity securities and permits trading through an Eligible Exchange that is experiencing system problems.[14] The ISE is proposing ''self-help'' rules similar to its equity Rule 2107(c)(1), adopted pursuant to Regulation NMS.
- *Trading Rotations:* Rule 1901(b)(2) implements Section 5(b)(ii) of the Plan and carries forward the current trade-through exception in the Old Plan [15] and current Rule 1902(b)(5) related to the opening of markets. It is the options equivalent to the single price opening exception in Regulation NMS for equity securities.[16] We use a trading rotation to open an option for trading, or to reopen an option after a trading halt. The rotation is effectively a single price auction to price the option and there are no practical means to include prices on other exchanges in that auction.
- *Crossed Markets:* Rule 1901(b)(3) implements Section 5(b)(iii) of the Plan and is the functional equivalent to ISE Rule 2107(c)(3) for equity securities. If the best intermarket bid is higher than the best intermarket offer, it indicates that there is some form of market dislocation or inaccurate quoting. Permitting transactions to be executed without regard to trade-throughs in a Crossed Market will allow the market to quickly return to equilibrium.
- *Intermarket Sweep Orders (''ISOs''):* Rule 1901(b)(4) is the ISO exemption and implements Sections 5(b)(iv) and (v) of the Plan. Section 5(b)(iv) of the Plan permits a Participant to execute orders it receives from other Participants or members that are marked as ISO even when it is not at the NBBO.[17] Section 5(b)(v) of the Plan allows a Participant to execute inbound orders when it is not at the NBBO, provided it simultaneously ''sweeps'' all better-priced interest displayed by Eligible Exchanges. These provisions are the options equivalents of the corresponding Regulation NMS equity rules.[18]
- *Quote Flickering:* Rule 1901(b)(5) implements Section 5(b)(vi) of the Plan and corresponds to the flickering quote exception in Regulation NMS for equity securities.[19] Options quotations change as rapidly, if not more rapidly, than equity quotations. Indeed, they track the price of the underlying security and thus change when the price of the

[4] Release No. 34–51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

[5] Regulation NMS Rule 611(a).

[6] Regulation NMS Rule 600(b)(30).

[7] Sections 5(a)(i) and 5(b)(iv) of the Plan.

[8] Section 2(9) of the Plan.

[9] Regulation NMS Rule 611(c) and Section 5(c) of the Plan.

[10] Section 6 of the Plan.

[11] *Id.*

[12] *See, e.g.,* the definitions of ''Broker-Dealer'' in Rule 1900(c), NBBO in Rule 1900(j), Non-Firm in Rule 1900(k), OPRA Plan in Rule 1900(l), and Participant in Rule 1900(m).

[13] *See, e.g.,* the definitions of ''Best Bid''/''Best Offer'' in Rule 1900(a), ''Bid''/''Offer'' in Rule 1900(b), ''Intermarket Sweep Order'' (''ISO'') in Rule 1900(h), and ''Quotation'' in Rule 1900(p).

[14] *See* Regulation NMS Rule 611(b)(1).

[15] *See* Old Plan Section 8(c)(iii)(E).

[16] *See* Regulation NMS Rule 611(b)(3) under the Securities Exchange Act of 1934, as amended (''Act'').

[17] Supplementary Material .01 to Rule 1901 specifies that all ISOs routed to the ISE from other exchanges on behalf of public customers will be represented as Priority Customer Orders. Priority Customer Orders are executed prior to Professional Orders on the ISE. ISE Rule 100(37A) defines Priority Customer Orders as orders for persons who do not place more than 390 orders in listed options per day on average during a calendar month. The other options exchanges have not adopted this distinction between Priority Customer and Professional Orders. Thus, we do not believe it is practical or appropriate to require ISOs sent to us from other exchanges, representing customer orders from such exchanges, to be marked as Professional Orders.

[18] *See* Regulation NMS Rules 611(b)(5) and (6).

[19] *See* Regulation NMS Rule 611(b)(8).

underlying security changes. This exception provides a form of ''safe harbor'' to market participants to allow them to trade through prices that have changed within a second of the transaction, causing a nominal trade-through.

• *Non-Firm Quotes:* Rule 1901(b)(6) implements Section 5(b)(vii) of the Plan and carries forward the current non-firm quote trade-through exception in the Old Plan.[20] By definition, an exchange's quotations may not be firm for automatic execution during this trading state and thus should not be protected from trade-throughs. In effect, these quotations are akin to ''manual quotations'' under Regulation NMS.

• *Complex Trades:* Rule 1901(b)(7) implements Section 5(b)(viii) of the Plan and carries forward the current complex trade exception in the Old Plan.[21] Complex trades consist of multiple transactions (''legs'') effected at a net price, and it is not practical to price each leg at a price that does not constitute a trade-through. This exemption will apply to executions in the Exchange's Complex Order Mechanism.[22]

• *Customer Stopped Orders:* Rule 1901(b)(8) implements Section 5(b)(ix) of the Plan and corresponds to the customer stopped order exception in Regulation NMS for equity securities.[23] It permits broker-dealers to execute large orders over time at a price agreed upon by a customer, even though the price of the option may change before the order is executed in its entirety.

• *Stopped Orders and Price Improvement:* Rule 1901(b)(9) implements Section 5(b)(x) of the Plan and would apply if an order is stopped at price that did not constitute a trade-through at the time of the stop. This exception will facilitate the use of the ISE's ''Price Improvement Mechanism,'' by which members could seek price improvement for that order, even if the market moves in the interim, and the transaction ultimately is effected at a price that would trade through the then currently-displayed market.[24]

• *Benchmark Trades:* Rule 1901(b)(10) implements Section 5(b)(xi) of the Plan and would cover trades executed at a price not tied to the price of an option at the time of execution, and for which the material terms were not reasonably determinable at the time of the commitment to make the trade. An example would be a volume-weighted average price trade, or ''VWAP.'' This corresponds to a trade-through exemption in Regulation NMS for equity trades.[25] The ISE does not currently permit these types of options trades, and any transaction-type relying on this exemption would require the ISE to adopt implementing rules, subject to Commission review and approval.

Rule 1902—Locked and Crossed Markets

Proposed Rule 1902 implements Section 6 of the Plan, which requires Plan participants to establish, maintain and enforce rules that: require their members reasonably to avoid displaying locked and crossed markets; are reasonably deigned to assure reconciliation of locked and crossed markets; and prohibit their members from engaging in a pattern or practice of displaying locked and crossed markets. Section 6 of the Plan further allows an exchange to provide exceptions to these limitations as ''contained in the rules of a Participant approved by the Commission.''

Proposed Rule 1902(a) contains the general prohibition that ISE members shall reasonably avoid displaying, and shall not engage in a pattern or practice of displaying, any quotations that lock or cross the best bid or offer of another exchange. We propose four exceptions to this general prohibition.[26]

The first exception would apply when we are experiencing system issues, and is similar to the systems issues exception to the trade-through rule. The second exception applies when there is a crossed market, and also is similar to the corresponding trade-through exception. Also similar to the trade-through exception, the third exception applies when a member simultaneously routes an ISO to execute against the full displayed size of any locked or crossed protected bid or offer. The fourth proposed exception applies to locked markets in the following circumstances:

• Neither the locking or locked quote represents, in whole or in part, a customer order; or

• A customer enters a bid or offer that locks a non-customer quotation on another market, and the customer, on a case-by-case basis, authorizes the locking of the other market's quotation.[27]

This fourth exemption recognizes an important distinction between the equities and options markets. Options market makers compete for order flow by disseminating quotations in multiple series with respect to each underlying security, distributing liquidity over a much greater universe of products than in the equity markets. As a result, the options markets are more reliant on market maker quotations to provide liquidity, with fewer customer orders in each series than in each underlying security, where liquidity is concentrated in one product.[28]

With market makers on multiple exchanges constantly updating their quotations in all these series based on mathematical formulae there is a greater likelihood of market maker quotations locking. We believe that in most cases locked market maker quotations are good for the investing public. Effectively locked markets provide a ''zero spread,'' allowing market participants to buy and sell an option at the same price. On the ISE these quotations are firm, and are fully executable on an automated basis.

We recognize that locked markets are more complicated where one or both of the locking quotations represents a customer order. Where there is contra-side market interest willing to trade with a customer, the customer order should be filled. Thus, we would not exempt from the locked market prohibition situations involving customer orders unless the customer entering the locking order specifically authorizes the lock on a case-by-case basis.[29]

As proposed, the ISE will not permit a member to lock another exchange's quotation unless the ISE can establish that the quotation on the other exchange is not for the account of a customer. The options exchanges currently are working on a method to so identify customer quotations through the Options Price Reporting Authority. Absent the ability to identify a customer quote as part of an exchange's BBO, the ISE will assume that the quote represents, in whole or in part, a customer order. That is, the ISE will not permit its members to avail themselves of this exemption unless another exchange has informed the ISE that it will designate all customer orders as such in OPRA, and such exchange's quotation does not contain such designation. If an exchange opts not to identify its customer quotations, the ISE will treat all of that exchange's quotations as customer orders and, absent application of another exception, will not permit locks of such quotations.

[20] *See* Old Plan Section 8(c)(iii)(C).

[21] *See* Old Plan Section 8(c)(iii)(G).

[22] *See* ISE Rule 722.

[23] *See* Regulation NMS Rule 611(b)(9).

[24] *See* ISE Rule 723.

[25] *See* Regulation NMS Rule 611(b)(7).

[26] *See* e-mail from Michael Simon, General Counsel, ISE, to David Liu, Assistant Director, Division of Trading and Markets, Commission, dated May 29, 2009.

[27] *See id.*

[28] *See id.*

[29] We can envision a customer authorizing a lock when the fees associating with trading against the locked market make the execution price uneconomical to the customer.

Temporary Rule 1903—Phase Out of Intermarket Linkage Rules

When the Plan and implementing rules become operative it is possible that not all the options exchanges will be functionally able to operate pursuant to the Plan. Thus, in order to ensure there is full intermarket trade-through protection during this interim period, we propose to retain certain minimum trade-through rules governing the operation of the Linkage until all the options exchanges are operating pursuant to the Plan. When that occurs we will file a rule change with the Commission to delete Temporary Rule 1903.

Temporary Rule 1903 provides that the ISE will continue to accept Principal Acting as Agent (''P/A'') and Principal Orders from options exchanges that use such orders to address trade-throughs. The handling of these orders will be subject to rules that parallel the operation of the Linkage under the Old Plan.

Amendment of Other ISE Rules To Accommodate the Plan

We propose to amend six ISE rules outside of Chapter 19:

- First, Rule 701, entitled ''Trading Rotations,'' describes the initiation of trading in an options series. That rule currently permits an ISE Primary Market Maker (''PMM'') to send various Linkage orders prior to the opening of trading on the Exchange. With the termination of the Linkage such provision no longer will be necessary and we thus propose to delete this provision.
- Second, Rule 714 governs when we provide automatic execution for orders we receive. We propose to amend that rule to reflect the terminology in the Plan and the implementing rules. We propose no substantive changes to that rule.
- Third, we propose to amend the Supplementary Material Rule 716, entitled ''Block Trades,'' to delete Supplementary Material .07 which implements the block exception in the Old Plan, which no longer will be in effect.
- Fourth, Rule 803(c) and the Supplementary Material govern the obligations of PMMs, including the PMMs' obligation to address customer orders when there is a better market displayed on another exchange. We propose to amend this rule to specify that ISE will discharge its obligations under the Plan to ''establish, maintain and enforce written policies and procedures * * * reasonably designed to prevent Trade-Throughs'' [30] by requiring PMMs to address customer orders when there is a better market away. This is similar to PMMs' obligations under the Old Plan. However, PMMs would meet this obligation via the use of ISOs rather than Linkage orders.[31] ISE will conduct surveillance of PMMs' trading activities to ensure that they comply with this obligation.

PMMs will comply with their obligation (i) by executing a customer order at a price that at least matches the best price displayed or (ii) by sending ISO(s) as agent for the customer to any other exchange(s) displaying a superior price and, with respect to any remaining portion of the customer order, either (a) releasing the remaining portion of the order for execution in the Exchange's auction market or (b) executing the remaining portion of the order at a price superior to the best price in the Exchange's auction market.

The amended rule further specifies that: (i) In addressing customer orders that are not automatically executed because there is a displayed bid or offer on another exchange trading the same options contract that is better than the best bid or offer on the Exchange, the Exchange will act in compliance with its rules and with the provisions of the Act and the rules thereunder, including, but not limited to, the requirements in Section (6)(b)(4) and (5) of the Act that the rules of national securities exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers; and (ii) all orders entered on the Exchange and routed to another exchange via an ISO pursuant to the Rule, and that result in an execution, are binding.

- Fifth, Rule 810 governs ''informational barriers'' that ISE market makers must maintain within their firms. These barriers restrict the flow of information between personnel handling market making activities, on the one hand, and personnel performing other functions, including the acting as agency [sic] for customer orders, on the other hand. Under the Old Plan, when there is a better market on another exchange, a PMM can send a P/A Order to that exchange in an attempt to access that better price for the customer. This is consistent with Rule 810 because a P/A Order is a principal order, and a firm is permitted to send such an order from the market-making side of the information barrier.

Under the Plan and these proposed rules, PMMs will send ISOs representing the underlying customer orders, rather than P/A Orders, when there is a better market away. Because these ISOs technically will be orders on behalf of a Public Customer current Rule 810 would prohibit a PMM from sending such an order. We propose a narrow carve-out to Rule 810 that would permit a PMM to send ISOs solely to comply with its obligation under Rule 803 to address Public Customer orders when there is a better market on another exchange. PMMs will act as agent in these circumstances, and will send the ISOs from the market making side of the information barrier. In all other respects PMMs will be subject to Rule 810.

- Sixth, Rule 811(b) governs Directed Orders and currently states that ISE market makers may act as agent for customer orders only when handling directed orders. We propose to amend that rule to reflect the ability of Primary Market Makers to act as agent when sending ISOs under Rule 803.

2. Statutory Basis

The basis under the Act for this proposed rule change is found in Section 6(b)(5),[32] in that the proposed rule change is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the Exchange believes that adopting rules that implement the Plan will facilitate the trading of options in a national market system by establishing more efficient protection against trade-throughs and locked and crossed markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on

[30] Section 5(a) of the Plan.

[31] The routing of Public Customer orders to another exchange when the ISE is not at the best price is, in effect, voluntary. A customer can avoid such route-outs by entering an Immediate or Cancel (''IOC,'' *see* ISE Rule 715(b)(3)) or Fill or Kill (''FOK,'' *see* ISE Rule 715(b)(2)) order. If the Exchange cannot immediately execute such orders, it will cancel all of the order (FOK orders) or the unexecuted portion of the order (IOC orders) without routing such orders to another exchange.

[32] 15 U.S.C. 78f(b)(5).

this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve 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 e-mail to *rule-comments@sec.gov.* Please include File No. SR–ISE–2009–27 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2009–27. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2009–27 and should be submitted on or before June 29, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–13205 Filed 6–5–09; 8:45 am]

BILLING CODE 8010–01–P

[33] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 6655]

30-Day Notice of Proposed Information Collection: DS–5506, Local American Citizen Skills/Resources Survey, New—OMB No. 1405–XXXX

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Local American Citizen Skills/Resources Survey.
- *OMB Control Number:* New—OMB No. 1405–XXXX.
- *Type of Request:* New Collection.
- *Originating Office:* Bureau of Consular Affairs, Overseas Citizens Services (CA/OCS).
- *Form Number:* DS–5506.
- *Respondents:* United States Citizens.
- *Estimated Number of Respondents:* 2,000.
- *Estimated Number of Responses:* 2,000.
- *Average Hours per Response:* 15 minutes.
- *Total Estimated Burden:* 500 hours.
- *Frequency:* On Occasion.
- *Obligation to Respond:* Voluntary.

DATE(S): Submit comments to the Office of Management and Budget (OMB) for up to 30 days from June 8, 2009.

ADDRESSES: Direct comments and questions to Katherine Astrich, the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB), who may be reached at 202–395–4718. You may submit comments by any of the following methods:

- *E-mail: kastrich@omb.eop.gov.* You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- *Mail* (*paper, disk, or CD–ROM submissions*): Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503.
- *Fax:* 202–395–5806.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from Derek A. Rivers, Bureau of Consular Affairs, Overseas Citizens Services (CA/OCS/PRI), U.S. Department of State, SA–29, 4th Floor, Washington, DC 20520, who may be reached on (202) 736–9082 or *ASKPRI@state.gov.*

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond.

Abstract of proposed collection: The Local American Citizen Skills/Resources Survey is a systematic method of gathering information about skills and resources from U.S. citizens that will assist in improving the well-being of other U.S. citizens affected or potentially affected by a crisis.

Methodology: The information is collected in person, by fax, or via mail. The Bureau of Consular Affairs is currently exploring options to make this information collection available electronically.

Dated: May 5, 2009.

Mary Ellen Hickey,

Managing Director, Bureau of Consular Affairs, Department of State.

[FR Doc. E9–13334 Filed 6–5–09; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 6654]

60-Day Notice of Proposed Information Collection: DS–3013 and 3013–s, Application Under the Hague Convention on the Civil Aspects of International Child Abduction, OMB 1405–0076

ACTION: Notice of request for public comments.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Application Under the Hague Convention on the Civil Aspects of International Child Abduction
- *OMB Control Number:* 1405–0076
- *Type of Request:* Revision
- *Originating Office:* CA/OCS/PRI
- *Form Number:* DS–3013, 3013–s
- *Respondents:* Person seeking return of or access to child
- *Estimated Number of Respondents:* 2,355
- *Estimated Number of Responses:* 2,355
- *Average Hours per Response:* 1 hour
- *Total Estimated Burden:* 2,355
- *Frequency:* On occasion
- *Obligation to Respond:* Voluntary

DATES: The Department will accept comments from the public up to 60 days from August 7, 2009.

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

- *E-mail: ASKPRI@state.gov.*
- *Mail (paper, disk, or CD–ROM submissions):* U.S. Department of State, CA/OCS/PRI, SA–29, 4th Floor, Washington, DC 20520
- *Fax:* (202) 736–9111

You must include the DS form number (if applicable), information collection title, and OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection should be made to Derek A. Rivers, Bureau of Consular Affairs, Overseas Citizens Services (CA/OCS/PRI), U.S. Department of State, SA–29, 4th Floor, Washington, DC 20520, who may be reached on (202) 736–9082 or *ASKPRI@state.gov.*

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of proposed collection: The Application Under the Hague Convention on the Civil Aspects of International Child Abduction (DS–3013 and DS 3013–s) is used by parents or legal guardians who are asking the State Department's assistance in seeking the return of, or access to, a child or children alleged to be wrongfully removed from or retained outside of the child's habitual residence and currently located in another country that is also party to the Hague Convention on the Civil Aspects of International Child Abduction. The application requests information regarding the identities of the applicant, the child or children, and the person alleged to have wrongfully removed or retained the child or children. In addition, the application requires that the applicant provide the circumstances of the alleged wrongful removal or retention and the legal justification for the request for return or access. The State Department, as the U.S. Central Authority, uses this information to establish, if possible, the applicants' claims under the Convention; to advise applicants about available remedies under the Convention; and to provide the information necessary to the foreign Central Authority in its efforts to locate the child or children, and to facilitate return of or access to the child or children pursuant to the Convention.

Methodology: The completed form DS–3013 and DS 3013–s may be submitted to the Office of Children's Issues by mail, by fax, or electronically through *http://www.travel.state.gov.*

Dated: May *20, 2009.*

Mary Ellen Hickey,

Managing Director, Bureau of Consular Affairs, Department of State.

[FR Doc. E9–13337 Filed 6–5–09; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 6657]

Notice of Availability of the Final Environmental Impact Statement; Enbridge Energy, Limited Partnership (''Alberta Clipper Project'')

AGENCY: Department of State.

ACTION: Notice of Availability of the Final Environmental Impact Statement; Enbridge Energy, Limited Partnership (''Alberta Clipper Project'').

SUMMARY: Enbridge Energy, Limited Partnership (''Enbridge'') has applied to the Department of State for a Presidential Permit, pursuant to Executive Order 13337 of April 30, 2004, to construct, connect, operate, and maintain a 36-inch diameter crude oil and liquid hydrocarbon pipeline at the U.S.-Canadian border near Neche, Pembina County, North Dakota, for the purpose of transporting liquid hydrocarbons and other petroleum products between the United States and Canada. Enbridge seeks this authorization in connection with its Alberta Clipper Pipeline, which is designed to transport Canadian crude oil from the Western Canadian Sedimentary Basin (''WCSB'') to existing refinery markets in the Midwest region of the United States. The Department of State has prepared a final Environmental Impact Statement (EIS) for the United States portion of the proposed Alberta Clipper Pipeline (''Proposed Project'').

The Secretary of State is designated and empowered to receive all applications for Presidential Permits, as referred to in Executive Order 13337, as amended, for the construction, operation, and maintenance, at the borders of the United States, of facilities for the exportation or importation of petroleum, petroleum products, coal, or other fuels to or from a foreign country. Any person wishing to comment on the final EIS may do so. To ensure consideration prior to a Department of State decision on the Enbridge proposal, it is important that we receive comments no later than July 3, 2009.

SUPPLEMENTARY INFORMATION: The final EIS was prepared in conformity with the requirements of the National Environmental Policy Act (NEPA) and to evaluate the potential environmental impacts of the United States portion of the proposed pipeline. The document also evaluates alternatives to the proposal, including system alternatives and pipeline route alternatives.

The federal cooperating agencies for the development of this EIS are: U.S.

Army Corps of Engineers; U.S. Fish and Wildlife Service; U.S. Department of Agriculture—Farm Service Agency, Natural Resources Conservation Service; U.S. Department of the Interior, Bureau of Indian Affairs; and the U.S. Environmental Protection Agency. In addition, two Indian Bands are acting as cooperating agencies for this EIS: the Fond du Lac Band of Lake Superior Chippewa; and the Leech Lake Band of Ojibwe Indians. Cooperating agencies either have jurisdiction by law or special expertise with respect to the environmental impacts assessed in connection with the proposal and are involved in the Department's analysis of those environmental impacts.

The Alberta Clipper pipeline would be a new pipeline that would transport crude oil from Enbridge's existing facilities in Hardisty, Alberta, Canada to its existing terminal in Superior, Wisconsin. From there, the liquid hydrocarbons would be transported to Midwestern markets, the eastern United States and Canada, and the Midcontinent and U.S. Gulf markets. Crude oil would be transported to markets in the Midwest via Enbridge's Lakehead System, which is currently being expanded, and potentially through pipelines that may be constructed in the future. The pipeline would be designed to transport an average crude oil volume of approximately 450,000 bpd.

The Proposed Project would consist of approximately 326.9 miles of new 36-inch-diameter pipeline and associated facilities installed primarily within or adjacent to existing Enbridge pipeline corridors. The Proposed Project also would require new construction at existing pump stations and construction of delivery facilities and mainline valves. The pipeline would have the capacity to deliver an average of 450,000 barrels per day (bpd) of heavy crude oil from a supply hub near Hardisty to an existing terminal in Superior. In Canada, the pipeline includes approximately 673 miles of new pipeline and associated facilities from Hardisty to the U.S./Canada border near Neche, North Dakota. The Canadian portion of the Alberta Clipper pipeline system has been approved by the Canadian National Energy Board and other Canadian reviewing entities, and is under construction.

Approximately 82 percent of the proposed pipeline route in the United States would be within or adjacent to an existing Enbridge pipeline corridor. The existing corridor houses six pipelines between the U.S./Canada border and Clearbrook, Minnesota (including the Southern Lights LSr Project pipeline which began construction in summer 2008), and four existing pipelines between Clearbrook and Superior. The existing pipelines transport crude oil or petroleum products. A fifth pipeline has been proposed for the corridor between Clearbrook and Superior, and Enbridge proposes to construct it concurrently with the Alberta Clipper Project pipeline.

Enbridge proposes to begin construction activities for the Project in summer 2009, with a planned in-service date of early 2010, subject to receipt of all necessary permits, approvals, and authorizations pursuant to DOS regulations (40 CFR 1500–1508 and 22 CFR 161).

As a separate but connected action to the Proposed Project, Enbridge is proposing to construct, operate, and maintain the Superior Terminal Expansion Project. This project would consist of five new 250,000-barrel storage tanks and associated piping and facilities at the existing Enbridge terminal. The Superior Terminal Expansion Project is not part of the Presidential Permit Application submitted to DOS and would be permitted separately from the Alberta Clipper Project.

Construction of the Proposed Project would generally require a 140-foot-wide construction right-of-way to allow temporary storage of topsoil and spoil and to accommodate safe operation of construction equipment. Enbridge would retain a portion of the construction right-of-way in order to maintain a 75-feet right-of-way from the current outermost pipeline.

The Proposed Project would not require construction of new pump stations. Mainline valves would be installed along the pipeline to limit the volume of a spill if one were to occur. Enbridge conducted an analysis to determine the most appropriate locations for mainline valves in compliance with the requirements of 49 CFR Part 195. Construction of the pipeline would require establishment of rail unloading sites for delivery of pipe and contractor/pipe storage yards at locations near the construction right-of-way to temporarily store pipe and the contractor's vehicles, equipment, tools, and other construction-related items. Rail unloading areas would be located adjacent to railroad sidings. Enbridge would need to gain access to the construction right-of-way during pipeline installation and the permanent right-of-way during operation. In general, Enbridge would use existing public roads to gain access to the construction right-of-way as much as possible. In areas where public roads are limited, existing privately owned roads may be used for access, provided that Enbridge receives permission from the landowners. If neither public nor privately owned roads are available, Enbridge would construct new access roads that typically would be approximately 10 to 30 feet wide.

U.S. States and counties that could possibly be affected by construction of the proposed pipeline are:

- *North Dakota:* Pembina;
- *Minnesota:* Kittson, Marshall, Pennington, Red Lake, Polk, Clearwater, Beltrami, Hubbard, Cass, Itasca, Aitkin, St. Louis, Carlton; and
- *Wisconsin:* Douglas.

Comment Procedures and Public Meetings: Any person wishing to comment on the final EIS may do so. To ensure consideration prior to a Department of State decision on the proposal, it is important that we receive your comments no later than July 3, 2009.

Options for submitting comments on the Final EIS are as follows:

- *By mail to:* Elizabeth Orlando, Alberta Clipper Project Manager, U.S. Department of State, OES/ENV Room 2657, Washington, DC 20520.

Please note that Department of State mail can be delayed due to security screening.

- *Fax to:* (202) 647–5947, attention Elizabeth Orlando.
- *E-mail to: albertaclipperEIS@state.gov.*
- *Comment over the Internet via the Alberta Clipper EIS Web site: http://www.albertaclipper.state.gov.*

Comments received will be included in the public docket without change and may be made available on-line at *http://www.albertaclipper.state.gov,* including any personal information provided, unless the commenter indicates that the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through e-mail. If you send a comment by e-mail, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, we recommend that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If we cannot read your comment because of technical difficulties and cannot contact you for clarification, we may not be able to consider your comment. Electronic

comments should avoid the use of any special characters, any form of encryption, and be free of any defects or viruses.

Copies of the final EIS have been mailed to interested federal, tribal, state and local agencies; public interest groups; individuals and affected landowners who requested a copy of the final EIS or provided comments during the scoping process; libraries; newspapers; and other stakeholders.

FOR FURTHER INFORMATION CONTACT: The Enbridge application for a Presidential Permit, including associated maps and drawings, the final EIS; a list of libraries where the final EIS may be reviewed; and other project information is available for viewing and download at the project Web site: *http://www.albertaclipper.state.gov.*

For information on the proposed project or the final EIS contact Elizabeth Orlando, OES/ENV Room 2657, U.S. Department of State, Washington, DC 20520, or by telephone (202) 647–4284, or by fax at (202) 647–5947.

Daniel Fantozzi,

Director, Bureau of Oceans and International Environmental and Scientific Affairs/Office of Environmental Policy, Department of State.

[FR Doc. E9–13335 Filed 6–5–09; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF STATE

[Public Notice 6656]

Issuance of an Amended Presidential Permit Authorizing the Construction, Operation, and Maintenance of an International Bridge Near McAllen, TX, at the International Boundary Between the United States and Mexico

SUMMARY: At the request of the permittee, the Department of State has amended the Presidential permit, originally issued in 1999, that authorizes the Cities of McAllen, Hidalgo, and Mission, Texas to construct, operate, and maintain an international bridge known as ''Anzalduas Bridge'' near McAllen, Texas, at the international boundary between the United States and Mexico. The amendment removes an article in the original permit that limited initial operating hours of the bridge to twelve hours per day. With this restriction removed, the Department of Homeland Security's Bureau of Customs and Border Patrol, working with local and Mexican authorities, can set the bridge's hours of operation in accordance with demand and available resources. In making its determination to amend the permit, the Department provided public notice of the proposed amendment and provided the opportunity for comment (74 FR 12173, March 23, 2009) and also consulted with other federal agencies, as required by Executive Order 11423, as amended.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Darrach, U.S.-Mexico Border Affairs Coordinator, via e-mail at *WHA-BorderAffairs@state.gov*; by phone at 202–647–9894; or by mail at Office of Mexican Affairs—Room 3909, Department of State, 2201 C St., NW., Washington, DC 20520. Information about Presidential permits is available on the Internet at *http://www.state.gov/p/wha/rt/permit/.*

SUPPLEMENTARY INFORMATION: The following is the text of the amended permit:

By virtue of the authority vested in me as Acting Assistant Secretary of State for the Bureau of Economic, Energy, and Business Affairs under Executive Order 11423, 33 FR 11741 (1963), as amended by Executive Order 12847 of May 17, 1993, 58 FR 29511 (1993), Executive Order 13284 of January 23, 2003, 68 FR 4075 (2003), and Executive Order 13337 of April 30, 2004, 69 FR 25299 (2004), and Department of State Delegation of Authority 322 of January 16, 2009; having considered the environmental effects of the proposed action in accordance with the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4321 *et seq.*) and other statutes relating to environmental concerns; having considered the proposed action in accordance with the National Historic Preservation Act (80 Stat. 917, 16 U.S.C. 470f *et seq.*); and having requested and received the views of various of the federal departments and other interested persons; I hereby grant permission, subject to the conditions herein set forth, to the Cities of McAllen, Hidalgo, and Mission, Texas (hereinafter referred to as ''permittee''), to construct, operate, and maintain an international vehicular and pedestrian bridge southwest of McAllen, Texas, and adjacent to Reynosa, Tamaulipas, Mexico.

The term ''facilities'' as used in this permit means the bridge, its approaches and any land, structure or installations appurtenant thereto, as set forth in Alternative #3 in the ''Anzalduas International Crossing U.S.-Side Improvements, Final Environmental Assessment'' dated March 1996, as amended and supplemented by the Department of State (the ''EA'').

The term ''United States facilities'' as used in this permit means that part of the facilities in the United States.

This permit is subject to the following conditions:

Article 1. The United States facilities herein described, and all aspects of their operation, shall be subject to the conditions, provisions, and requirements of this permit or any amendment thereof; further that this permit may be terminated at the will of the Secretary of State or the Secretary's delegate or may be amended by the Secretary of State or the Secretary's delegate at will or upon proper application therefore; further that the permittee shall make no substantial change in the location of the United States facilities or in the operation authorized by this permit until such changes have been approved by the Secretary of State or the Secretary's delegate.

Article 2. (1) Standards for, and the manner of, the construction, operation, and maintenance of the United States facilities shall be subject to inspection and approval by the representatives of appropriate federal or state agencies. The permittee shall allow duly authorized officers and employees of such agencies free and unrestricted access to said facilities in the performance of their official duties.

(2) Approval of the United States Coast Guard in conformity with Section 5 of the International Bridge Act of 1972 (33 U.S.C. 535c), by virtue of authority delegated to the Commandant, U.S. Coast Guard by Section 1.46(q) of Title 49, Code of Federal Regulations, shall be obtained prior to initiation of construction.

Article 3. The permittee shall comply with all federal and state laws and regulations regarding the construction, operation, and maintenance of the United States facilities, and with all applicable industrial codes.

Article 4. Upon the termination, revocation, or surrender of this permit, and unless otherwise agreed by the Secretary of State or the Secretary's delegate, the United States facilities in the immediate vicinity of the international boundary shall be removed by and at the expense of the permittee within such time as the Secretary of State or the Secretary's delegate may specify, and upon failure of the permittee to remove this portion of the United States facilities as ordered, the Secretary of State or the Secretary's delegate may direct that possession of such facilities be taken and that they be removed at the expense of the permittee; and the permittee shall have no claim for damages by reason of such possession or removal.

Article 5. If, in the future, it should appear to the United States Coast Guard

and the Secretary of Homeland Security or the Secretary's delegate that any facilities or operations permitted hereunder cause unreasonable obstructions to the free navigation of any of the navigable waters of the United States, the permittee may be required, upon notice from the Secretary of Homeland Security or the Secretary's delegate, to remove or alter such of the facilities as are owned by it so as to render navigation through such waters free and unobstructed.

Article 6. This permit and the operation of the United States facilities hereunder shall be subject to the regulations issued by any competent agency of the United States Government, including but not limited to the United States Coast Guard, the Department of Homeland Security, and the United States Section of the International Boundary and Water Commission (USIBWC). This permit shall continue in force and effect only so long as the permittee shall continue the operations hereby authorized in exact accordance with such limitations, terms, and conditions.

Article 7. When, in the opinion of the President of the United States, the national security of the United States demands it, due notice being given by the Secretary of State or the Secretary's delegate, the United States shall have the right to enter upon and take possession of any of the United States facilities or parts thereof; to retain possession, management, or control thereof for such length of time as may appear to the President to be necessary; and thereafter to restore possession and control to the permittee. In the event that the United States shall exercise such right, it shall pay to the permittee just and fair compensation for the use of such United States facilities upon the basis of a reasonable profit in normal conditions, and the cost of restoring said facilities to as good condition as existed at the time of entering and taking over the same, less the reasonable value of any improvements that may have been made by the United States.

Article 8. Any transfer of ownership or control of the United States facilities or any part thereof shall be immediately notified in writing to the United States Department of State, including the submission of a proper identification by the transferee. This permit shall remain in force subject to all the conditions, permissions and requirements of this permit and any amendments thereof unless terminated or amended by the Secretary of State or the Secretary's delegate.

Article 9. (1) The permittee shall acquire such right-of-way grants, easements, permits, and other authorizations as may become necessary and appropriate.

(2) The permittee shall save harmless the United States from any claimed or adjudged liability arising out of the construction, completion, or maintenance of the facilities.

(3) The permittee shall maintain the United States facilities and every part thereof in a condition of good repair for their safe operation.

Article 10. (1) The permittee shall provide to the General Services Administration (GSA), at no cost to the federal government, a site of 90 acres that is adequate and acceptable to GSA (that is, environmentally compliant and construction ready) on which to construct border station facilities at the United States terminal of the bridge.

(2) If permanent facilities are not completed and accepted by the GSA by 2005, the permittee shall provide, at no cost to the federal government, a ''temporary'' border station facility to include four traffic lanes and all related processing and support facilities until such time as permanent facilities have been completed and accepted by GSA.

(3) The permittee shall construct appropriate southbound inspection facilities for vehicle, pedestrian, and commercial traffic to include canopies and such features as may be needed to address security and safety concerns, prior to the opening of the bridge.

(4) The border station facilities used by agencies of the United States Government shall be owned by GSA.

(5) The permittee shall comply fully with all National Environmental Policy Act and National Historic Preservation Act mitigation provisions and stipulations for transfer of the site to GSA.

Article 11. (1) The permittee shall take all appropriate measures to prevent or mitigate adverse environmental impacts or disruption of significant archeological resources in connection with the construction, operation and maintenance of the United States facilities, including those measures set forth in the EA and in the Department's Finding of No Significant Impact dated July 23, 1999.

(2) The permittee shall comply with all of its obligations under the Four-Party Land and Dedication Agreement among the United States Department of the Interior Fish and Wildlife Service, AgHOC, Inc., the City of McAllen, Texas, and the McAllen/Hidalgo/Mission International Bridge Board of July 26, 1995; as amended by The First Amendment to the Four-Party Land and Dedication Agreement dated April 1, 1999, and signed April 15, 1999; and with all of the terms and provisions of Resolution No. 1999–12 adopted by the McAllen City Commission at its March 22, 1999, meeting.

(3) Before beginning construction the permittee shall: conclude satisfactory arrangements with appropriate federal and state agencies that will provide the assurance to the USIBWC that the bridge and associated facilities will not in any way present an obstruction or deflection to the normal flows or flood flows designated by the USIBWC in the reach of the international part of the Rio Grande River; acquire the appropriate permits and licenses from the USIBWC for crossing the interior floodways and for direct or indirect use of facilities associated with the Lower Rio Grande Flood Control Project; and obtain the approval of the U.S. Commissioner of the IBWC that the project is consistent with the terms of boundary and water treaties between the United States and Mexico and other international agreements in force.

(4) If at a future date the permittee determines that the base flood elevations or the Special Flood Hazard Area will be affected as a result of the proposed project, it shall submit the appropriate scientific or technical data in accordance with the requirements of Part 65 of the National Flood Insurance Program and request a map revision.

Article 12. The permittee shall notify the Department of State and the Texas Historical Commission in the event historic or archaeological resources are discovered during the course of construction activity, and the permittee shall cease such construction activity in the immediate vicinity of those resources while preparing documentation required by Section 106 of the National Historic Preservation Act, 16 U.S.C. 470f, and Section 303 [formerly 4(f)] of the Department of Transportation Act, 49 U.S.C. 303, to address particular sites directly impacted by the project that are identified as requiring in situ preservation.

Article 13. The permittee shall comply with all agreed actions and obligations undertaken to be performed by it in the Application and Final Environmental Assessment dated March 1996.

Article 14. The permittee shall file with the appropriate agencies of the United States Government such statements or reports under oath with respect to the United States facilities, and/or permittee's actions in connection therewith, as are now or may hereafter be required under any laws or regulations of the United States Government or its agencies.

Article 15. The permittee shall provide written notice to the Department of State at such time as the construction authorized by this permit is begun, and again at such time as construction is completed, interrupted, or discontinued.

Article 16. (1) The permittee shall begin construction no earlier than April 1, 2003, and shall open the bridge no earlier than January 1, 2005, unless prior to those dates the Secretary of State or the Secretary's delegate determines that the United States Congress has provided sufficient funds for construction, operation, and support of the Anzalduas International Crossing.

(2) The permittee shall begin construction of permanent cargo import facilities no earlier than January 1, 2015, unless prior to that date the Average Northbound Cargo Traffic at the Pharr International Bridge reaches 15,000 vehicles per week.

In witness thereof, I, David D. Nelson, Acting Assistant Secretary of State for the Bureau of Economic, Energy, and Business Affairs, have hereunto set my hand this 27th day of May 2009, in the City of Washington, District of Columbia.

Dated: June 1, 2009.

Alex Lee,

Director, Office of Mexican Affairs, Department of State.

[FR Doc. E9–13336 Filed 6–5–09; 8:45 am]

BILLING CODE 4710–29–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on December 23, 2008, vol. 73, no. 247, page 78866. The information collected on the FAA Form 8120–11 is used by those who wish to report suspected unapproved parts to the FAA for review.

DATES: Please submit comments by July 8, 2009.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Suspected Unapproved Parts Notification.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 2120–0552.

Form(s): 8120–11.

Affected Public: An estimated 150 Respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden per Response: Approximately 30 minutes per response.

Estimated Annual Burden Hours: An estimated 75 hours annually.

Abstract: The information collected on the FAA Form 8120–11 is used by those who wish to report suspected unapproved parts to the FAA for review. The information is used to determine if an unapproved part investigation is warranted.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov*, or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on June 1, 2009.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E9–13170 Filed 6–5–09; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Information for the Prevention of Aircraft Collisions on Runways at Towered Airports

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. Runway incursions are a risk to the public traveling in aircraft. Feedback from these surveys is used in the prevention of runway collisions and in the medication of the severity and frequency of runway incursions.

DATES: Please submit comments by August 7, 2009.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Information for the Prevention of Aircraft Collisions on Runways at Towered Airports.

Type of Request: Revision of an approved collection.

OMB Control Number: 2120–0692.

Forms(s): There are no FAA forms associated with this collection.

Affected Public: A total of 450,300 Respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 5 minutes per response.

Estimated Annual Burden Hours: An estimated 34,692 hours annually.

Abstract: Runway incursions are a risk to the public traveling in aircraft. Feedback from these surveys is used in the prevention of runway collisions and in the medication of the severity and frequency of runway incursions.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department,

including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on May 28, 2009.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AFS–200.

[FR Doc. E9–13171 Filed 6–5–09; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map; San Antonio International Airport; San Antonio, TX

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the city of San Antonio, Texas for San Antonio International Airport under the provisions of 49 U.S.C. 47501 *et seq.* (Aviation Safety and Noise Abatement Act) and 14 CFR part 150 are in compliance with applicable requirements.

DATES: *Effective Date:* The effective date of the FAA's determination on the noise exposure maps is May 28, 2009.

FOR FURTHER INFORMATION CONTACT: DOT/FAA Southwest Region, Mr. Paul Blackford, 652b, 2601 Meacham Blvd., Fort Worth, Texas 76137, (817) 222–5607.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for San Antonio International Airport are in compliance with applicable requirements of Part 150, effective May 28, 2009. Under 49 U.S.C. section 47503 of the Aviation Safety and Noise Abatement Act (hereinafter referred to as ''the Act''), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport. An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes to take to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

The FAA has completed its review of the noise exposure maps and accompanying documentation submitted by the city of San Antonio, Texas. The documentation that constitutes the ''noise exposure maps'' as defined in section 150.7 of Part 150 includes: Pages 3–1 through 3–14, pages 4–1 through 4–7, Figure 5–1, and Figure 5–2. The FAA has determined that these noise exposure maps and accompanying documentation are in compliance with applicable requirements. This determination is effective on May 28, 2009.

FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program. If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 47503 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 47506 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 47503 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

Copies of the full noise exposure map documentation and of the FAA's evaluation of the maps are available for examination at the following locations: (1) Federal Aviation Administration, 2601 Meacham Boulevard, Fort Worth, Texas 76137; (2) Ms. Sharon A. Robles, Senior Management Analyst, San Antonio International Airport, 9700 Airport Blvd., San Antonio, TX 78216. Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Fort Worth, Texas, May 28, 2009.

D. Cameron Bryan,

Acting Manager, Airports Division.

[FR Doc. E9–13172 Filed 6–5–09; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8907

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8907, Nonconventional Source Fuel Credit.

DATES: Written comments should be received on or before August 7, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Dawn Bidne, (202) 622–3933, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue,

NW., Washington, DC 20224, or through the Internet at *Dawn.E.Bidne@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Nonconventional Source Fuel Credit.

OMB Number: 1545–2008.

Form Number: Form 8907.

Abstract: Form 8907 will be used to claim a credit from the production and sale of fuel created from nonconventional sources. For tax years ending after 12/31/05 fuel from coke or coke gas can qualify for the credit, and the credit becomes part of the general business credit.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations, Individuals or households.

Estimated Number of Respondents: 22,000.

Estimated Time per Respondent: 12 hours 41 minutes.

Estimated Total Annual Burden Hours: 278,960.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 29, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–13213 Filed 6–5–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8905

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8905, Certification of Intent To Adopt a Pre-approved Plan.

DATES: Written comments should be received on or before August 7, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Dawn Bidne, (202) 622–3933, at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Dawn.E.Bidne@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Certification of Intent to Adopt a Pre-approved Plan.

OMB Number: 1545–2011.

Form Number: Form 8905.

Abstract: Use Form 8905 to treat an employer's plan as a pre-approved plan and therefore eligible for the six-year remedial amendment cycle of Part IV of Revenue Procedure 2005–66, 2005–37 I.R.B. 509. This form is filed with other document(s).

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations, Farms.

Estimated Number of Respondents: 29,000.

Estimated Time per Respondent: 3 hours 49 minutes.

Estimated Total Annual Burden Hours: 110,490.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 29, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–13214 Filed 6–5–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2006–25

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 2006–25, Qualifying Gasification Project Program.

DATES: Written comments should be received on or before August 7, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Dawn Bidne at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3933, or through the Internet at *Dawn.E.Bidne@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Qualifying Gasification Project Program.

Notice Number: 1545–2002.

Abstract: This Notice establishes the qualifying gasification project program under 48B of the Internal Revenue Code. The notice provides the time and manner for a taxpayer to apply for an allocation of qualifying gasification project credits.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of currently approved collection.

Affected Public: Business or other-for-profit organizations.

Estimated Number of Respondents: 20.

Estimated Time per Respondent: 51 minutes.

Estimated Total Annual Reporting Burden Hours: 1,700.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 29, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–13215 Filed 6–5–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8882

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8882, Credit for Employer-Provided Child Care Facilities and Services.

DATES: Written comments should be received on or before August 7, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carolyn N. Brown at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–6688, or through the Internet at (*Carolyn.N.Brown@irs.gov*).

SUPPLEMENTARY INFORMATION:

Title: Credit for Employer-Provided Child Care Facilities and Services.

OMB Number: 1545–1809.

Form Number: 8882.

Abstract: Qualified employers use Form 8882 to request a credit for employer-provided child care facilities and services. Section 45F provides credit based on costs incurred by an employer in providing child care facilities and resource and referral services. The credit is 25% of the qualified child care expenditures plus 10% of the qualified child care resource and referral expenditures for the tax year, up to a maximum credit of $150,000 per tax year.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and individuals.

Estimated Number of Respondents: 666,666.

Estimated Time per Respondent: 8 hours, 14 minutes.

Estimated Total Annual Burden Hours: 5,486,662.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 26, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–13216 Filed 6–5–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Schedule F, Parts II and III (Form 1040)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Schedule F, Parts II and III (Form 1040), Profit or Loss From Farming.

DATES: Written comments should be received on or before August 7, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Dawn Bidne, (202) 622–3933, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *Dawn.E.Bidne@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Profit or Loss From Farming.

OMB Number: 1545–1976.

Form Number: Schedule F, Parts II and III (Form 1040).

Abstract: Schedule F, Parts II and III (Form 1040) is used by individuals to report their Farm Income. The data is used to verify that the items reported on the form are correct and also for general statistical use.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations, Farming.

Estimated Number of Respondents: 8,495.

Estimated Time per Respondent: 5 hours, 49 minutes.

Estimated Total Annual Burden Hours: 49,356.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 29, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–13217 Filed 6–5–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[RP2009–25]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing Revenue Procedure, RP2009–25, Rulings and Determination Letters—(Amplifies RP2003–1 & 2003–3) 26 CFR 601–201.

DATES: Written comments should be received on or before August 7, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Carolyn N. Brown at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–6688, or through the internet at *(Carolyn.N.Brown@irs.gov).*

SUPPLEMENTARY INFORMATION:

Title: Rulings and Determination Letters.

OMB Number: 1545–1522.

Revenue Procedure: RP2009–25.

Abstract: This revenue procedure describes a new pilot program for letter rulings for certain transactions under the jurisdiction of the Associate Chief Counsel (Corporate). The new program does not diminish the availability of letter rulings under existing programs. The agency needs this information in order to use resources more efficiently and to provide more guidance to individual corporate taxpayers and their shareholders.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and business or other for-profit organizations.

Estimated Number of Respondents: 5,695.

Estimated Time per Respondent: 90 hours, 6 minutes.

Estimated Total Annual Burden Hours: 513,150.

The following paragraph applies to all of the collections of information covered by this notice:

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

Books or records relating to a collection of information must be

retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 28, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–13218 Filed 6–5–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8900

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8900, Qualified Railroad Track Maintenance Credit.

DATES: Written comments should be received on or before August 7, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Dawn Bidne at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3933, or through the internet at *Dawn.E.Bidne@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Qualified Railroad Track Maintenance Credit.

OMB Number: 1545–1983.

Form Number: 8900.

Abstract: Form 8900 Qualified Railroad Track Maintenance Credit, was developed to carry out the provisions of new Code section 45G. This new section was added by section 245 of the American Jobs Creation Act of 2004 (Pub. L. 108–357). The new form provides a means for the eligible taxpayer to compute the amount of credit.

Current Actions: There are no changes being made to Form 8900 at this time.

Type of Review: Extension of a current OMB approval.

Affected Public: Business or other for-profit organizations and farms.

Estimated Number of Respondents: 500.

Estimated Time per Respondent: 8 hours, 3 minutes.

Estimated Total Annual Burden Hours: 4,030.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 29, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–13219 Filed 6–5–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Schedule H (Form 1040)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Schedule H (Form 1040), Household Employment Taxes.

DATES: Written comments should be received on or before August 7, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Dawn Bidne (202) 622–3933, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet at *Dawn.E.Bidne@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Household Employment Taxes.

OMB Number: 1545–1971.

Form Number: Schedule H (Form 1040).

Abstract: Schedule H (Form 1040) is used by individuals to report their employment taxes. The data is used to verify that the items reported on the form are correct and also for general statistical use.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 19,814.

Estimated Time per Respondent: 3 hours 38 minutes.

Estimated Total Annual Burden Hours: 71,925.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 29, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–13220 Filed 6–5–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8910

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8910, Alternative Motor Vehicle Credit.

DATES: Written comments should be received on or before August 7, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Dawn Bidne at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3933, or through the Internet at *Dawn.E.Bidne@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Alternative Motor Vehicle Credit.

OMB Number: 1545–1998.

Form Number: 8910.

Abstract: Taxpayers will file Form 8910 to claim the credit for certain alternative motor vehicles placed in service after 2005.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, Business or other for-profit organizations, Not-for-profit institutions, farms, Federal Government and State, Local or Tribal Government.

Estimated Number of Respondents: 10,000.

Estimated Time per Respondent: 9 hours, 59 minutes.

Estimated Total Annual Burden Hours: 98,800.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 29, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–13230 Filed 6–5–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Schedule C–EZ (Form 1040)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Schedule C–EZ (Form 1040), Net Profit From Business.

DATES: Written comments should be received on or before August 7, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Dawn Bidne, (202) 622–3933, at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *Dawn.E.Bidne@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Net Profit From Business.

OMB Number: 1545–1973.

Form Number: Schedule C–EZ (Form 1040).

Abstract: Schedule C–EZ (Form 1040) is used by individuals to report their Business Income. The data is used to verify that the items reported on the form are correct and also for general statistical use.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 587,151.

Estimated Time per Respondent: 1 hour 45 minutes.

Estimated Total Annual Burden Hours: 1,027,515.

The following paragraph applies to all of the collections of information covered by this notice:

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

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 29, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–13231 Filed 6–5–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Schedule C (Form 1040)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Schedule C (Form 1040), Profit or Loss From Business.

DATES: Written comments should be received on or before August 7, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Dawn Bidne, (202) 622–3933, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *Dawn.E.Bidne@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Profit or Loss From Business.

OMB Number: 1545–1974.

Form Number: Schedule C (Form 1040).

Abstract: Schedule C (Form 1040) is used by individuals to report their Business Income. The data is used to verify that the items reported on the form are correct and also for general statistical use.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 10,000,236.

Estimated Time per Respondent: 10 hours 22 minutes.

Estimated Total Annual Burden Hours: 103,702,448.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 29, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–13232 Filed 6–5–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–208172–91]

Proposed Collection; Comment Request for Regulation Project; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice and request for comments.

SUMMARY: This document contains a correction to a notice and request for comments that was published in the **Federal Register** on Friday, May 29, 2009 at 74 FR 25802 inviting 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or regulations should be directed to Allan Hopkins at (202) 622–6665, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The notice and request for comments that is the subject of this correction is required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

Need for Correction

As published, the notice and request for comments for Proposed Collection; Comment Request for Regulation Project (REG–208172–91) contains an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the notice and request for comments for Proposed Collection; Comment Request for Regulation Project (REG–208172–91), which was the subject of FR Doc. E9–12454, is corrected as follows:

On page 25802, column 3, under the caption **DATES:**, line 2, the language ''received on or before May 30, 2006 to'' is corrected to read ''received on or before July 30, 2009 to''.

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E9–13243 Filed 6–5–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 13285–A; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice and request for comments.

SUMMARY: This document contains a correction to a notice and request for comments that was published in the **Federal Register** on Friday, May 29, 2009 at 74 FR 25811 inviting 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Allan Hopkins, (202) 622–6665, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The notice and request for comments that is the subject of this correction is required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

Need for Correction

As published, the notice and request for comments for Proposed Collection; Comment Request for Form 13285–A contains an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the notice and request for comments for Proposed Collection; Comment Request for Form 13285–A, which was the subject of FR Doc. E9–12465, is corrected as follows:

On page 25811, column 2, under the caption **DATES:**, line 2, the language ''received on or before June 19, 2006 to'' is corrected to read ''received on or before July 30, 2009 to''.

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E9–13244 Filed 6–5–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Small Business/Self Employed Issue Committee; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of meeting.

SUMMARY: This document contains a correction to a notice of open meeting of the Taxpayer Advocacy Panel Small Business/Self Employed Issue Committee, which was published in the **Federal Register** on Thursday, April 30, 2009 (74 FR 20102). This notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Small Business/Self Employed Issue Committee will be held.

FOR FURTHER INFORMATION CONTACT: Janice Spinks at 1–888–912–1227 or 206–220–6098.

SUPPLEMENTARY INFORMATION:

Need for Correction

As published, the open meeting of the Taxpayer Advocacy Panel Small Business/Self Employed Issue Committee, contains an error which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the open meeting of the Taxpayer Advocacy Panel Small Business/Self Employed Issue Committee, which was the subject of FR Doc. E9–9878, is corrected as follows:

On page 20102, column 2, under the caption **SUPPLEMENTARY INFORMATION**, lines 8 through 11, the language ''Thursday, June 25, 2009 from 8 a.m. to 5 p.m., Friday, June 26, 2009 from 8 a.m. to 5 p.m. and Saturday, June 27, 2009 from 8 a.m. to 12 p.m. Mountain'' is corrected to read ''Thursday, June 25, 2009 from 1 p.m. to 4:30 p.m., Friday, June 26, 2009 from 8:30 a.m. to 4:30 p.m. and Saturday, June 27, 2009 from 8:30 a.m. to 11:30 a.m. Mountain''.

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedures and Administration).

[FR Doc. E9–13233 Filed 6–5–09; 8:45 am]

BILLING CODE 4830–01–P

Reader Aids

Federal Register

Vol. 74, No. 108

Monday, June 8, 2009

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.gpoaccess.gov/nara/index.html**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.archives.gov/federal__register**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

Reminders. Effective January 1, 2009, the Reminders, including Rules Going Into Effect and Comments Due Next Week, no longer appear in the Reader Aids section of the Federal Register. This information can be found online at **http://www.regulations.gov.**

CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, JUNE

26077–26280 1
26281–26510 2
26511–26770 3
26771–26932 4
26933–27070 5
27071–27242 8

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
8387 26929
8388 26931
8389 27067
8390 27069

Administrative Orders:
Memorandums:
Memo. of May 27, 2009 26277

5 CFR

Proposed Rules:
894 26302

7 CFR

28 26771
301 ..... 26774, 27071
319 26511
457 26281
1467 26281

Proposed Rules:
205 26591
920 26806
1205 26810
1209 26984

8 CFR

1 26933
100 26933
103 26933
204 26933
207 26933
208 26933
211 26933
212 26933
214 ..... 26514, 26933
216 26933
236 26933
244 26933
245 26933
248 26933
264 26933
274a 26514, 26933
301 26933
316 26933
320 26933
322 26933
324 26933
327 26933
328 26933
329 26933
330 26933
334 26933
392 26933

10 CFR

72 26285

Proposed Rules:
50 26303
70 26814
72 26310
430 26816
431 26596

12 CFR

225 ..... 26077, 26081
229 26515
337 26516
370 ..... 26521, 26941

Proposed Rules:
1230 26989
1770 26989

14 CFR

23 26777
25 ..... 26946, 26948
34 26778
36 27076
39 ..... 26288, 26291
71 ..... 27076, 27077, 27078
95 26779

Proposed Rules:
23 26818
39 ..... 26312, 26315, 26317, 26322, 26994

16 CFR

Proposed Rules:
321 ..... 26118, 26130
322 ..... 26118, 26130

17 CFR

239 26782
274 26782

21 CFR

510 26951
522 26951
524 26782

26 CFR

1 ..... 27079, 27080
20 ..... 27079, 27080
25 27080

Proposed Rules:
20 26597

28 CFR

Proposed Rules:
16 26598

29 CFR

4001 27080
4901 27080
4902 27080

31 CFR

356 26084

Proposed Rules:
103 26996

33 CFR

117 ..... 26087, 26293, 26294,

26295, 26296, 26952
165 .....26087, 26089, 26297, 26782, 26785, 26786, 26954
Proposed Rules:
100.....26138, 26326
110.....26328, 27000
117.....26820
165.....26138, 26823

36 CFR

223.....26091
261.....26091

38 CFR

3.....26956, 26958
4.....26958
9.....26788
38.....26092

39 CFR

20.....26959
3020.....26789

40 CFR

51.....26098
52 .....26098, 26099, 26103, 26525
180 .....26527, 26536, 26543
300.....26962
Proposed Rules:
51.....27002
52 .....26141, 26600, 27084
63.....26142
93.....27085
300.....27003

42 CFR

412.....26546
Proposed Rules:
412.....26600

44 CFR

64.....26569
65.....26572, 26577
Proposed Rules:
67.....26636, 26640

45 CFR

681.....26793

47 CFR

73 .....26299, 26300, 26801, 26802
74.....26300
400.....26965
Proposed Rules:
1.....26329
73.....26826

48 CFR

2.....26981
22.....26981
52.....26981
546.....26107
552.....26107
Proposed Rules:
2.....26646
4.....26646
12.....26646
39.....26646
52.....26646

49 CFR

1.....26981

50 CFR

17.....26488
216.....26580
635.....26110, 26803
648.....26589
660.....26983
679.....26804, 26805
Proposed Rules:
17.....27004
300.....26160
622 .....26170, 26171, 26827, 26829
635.....26174
679.....26183

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 131/P.L. 111–25
Ronald Reagan Centennial Commission Act (June 2, 2009; 123 Stat. 1767)

Last List May 27, 2009

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.