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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.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 370

RIN 3064–AD37

Amendment of the Debt Guarantee Program To Provide for the Establishment of a Limited Six-Month Emergency Guarantee Facility

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: To ensure an orderly phase-out of the Debt Guarantee Program (DGP), a component of the Temporary Liquidity Guarantee Program (TLGP), the FDIC is establishing a limited emergency guarantee facility. For most insured depository institutions and other entities participating in the DGP, the Debt Guarantee Program will conclude on October 31, 2009, with the FDIC's guarantee expiring no later than December 31, 2012. To the extent that certain of those entities become unable to issue non-guaranteed debt to replace maturing senior unsecured debt because of market disruptions or other circumstances beyond their control, the emergency guarantee facility will be available on an application basis. In order to utilize the emergency guarantee facility, an entity must apply to, and receive prior approval from, the FDIC. If the application is approved, the FDIC will guarantee the applicant's senior unsecured debt issued on or before April 30, 2010. Debt guaranteed under the emergency guarantee facility will be subject to an annualized assessment rate equal to a minimum of 300 basis points.

DATES: The final rule becomes effective on October 23, 2009.

FOR FURTHER INFORMATION CONTACT: *(For questions or comments related to applications) Lisa D. Arquette, Associate Director, Division of Supervision and Consumer Protection, (202) 898–8633 or larquette@fdic.gov*; Serena L. Owens, Associate Director, Supervision and Applications Branch, Division of Supervision and Consumer Protection, (202) 898–8996 or *sowens@fdic.gov*; Gail Patelunas, Deputy Director, Division of Resolutions and Receiverships, (202) 898–6779 or *gpatelunas@fdic.gov*; Donna Saulnier, Manager, Assessment Policy Section, Division of Finance, (703) 562–6167 or *dsaulnier@fdic.gov*; A. Ann Johnson, Counsel, Legal Division, (202) 898–3573 or *aajohnson@fdic.gov*; Ryan K. Clougherty, Senior Attorney, Legal Division, (202) 898–3843 or *rclougherty@fdic.gov*; or Robert C. Fick, Counsel, Legal Division, (202) 898–8962 or *rfick@fdic.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The FDIC adopted the TLGP in October 2008 following a determination of systemic risk by the Secretary of the Treasury (after consultation with the President) that was supported by recommendations from the FDIC and the Board of Governors of the Federal Reserve System (Federal Reserve).[1] The TLGP is part of a coordinated effort by the FDIC, the U.S. Department of the Treasury (Treasury), and the Federal Reserve to address unprecedented disruptions in the credit markets and the resultant difficulty of many financial institutions to obtain funds and to make loans to creditworthy borrowers. On October 23, 2008, the FDIC's Board of Directors (Board) authorized the publication in the **Federal Register** of an interim rule that outlined the structure of the TLGP.[2] Designed to assist in the stabilization of the nation's financial system, the FDIC's TLGP is composed of two distinct components: The DGP and the Transaction Account Guarantee Program (TAG program). Under the DGP, the FDIC guarantees certain senior unsecured debt issued by participating entities. Under the TAG program, the FDIC guarantees all funds held in qualifying noninterest-bearing transaction accounts at participating insured depository institutions (IDIs).[3]

The DGP initially permitted participating entities to issue FDIC-guaranteed senior unsecured debt until June 30, 2009, with the FDIC's guarantee for such debt to expire on the earlier of the maturity of the debt (or the conversion date, for mandatory convertible debt) or June 30, 2012.

To reduce the potential for market disruptions at the conclusion of the DGP and to begin the orderly phase-out of the program, on May 29, 2009 the Board issued a final rule that extended for four months the period during which certain participating entities could issue FDIC-guaranteed debt.[4] All IDIs and those other participating entities that had issued FDIC-guaranteed debt on or before April 1, 2009 were permitted to participate in the extended DGP without application to the FDIC. Other participating entities that received approval from the FDIC also were permitted to participate in the extended DGP. The expiration of the guarantee period was also extended from June 30, 2012 to December 31, 2012. As a result, all such participating entities were permitted to issue FDIC-guaranteed debt through and including October 31, 2009, with the FDIC's guarantee expiring on the earliest of the debt's mandatory conversion date (for mandatory convertible debt), the stated maturity date, or December 31, 2012.

With over $600 billion in guaranteed debt having been issued by 118 entities, the TLGP has been an important factor in restoring liquidity and confidence in the banking system. The program enabled banking organizations to meet financing needs at affordable terms during a period of system-wide turmoil. Recently, credit and liquidity conditions have become less stressed. Narrowing

[1] See Section 13(c)(4)(G) of the Federal Deposit Insurance Act (FDI Act), 12 U.S.C. 1823(c)(4)(G). The determination of systemic risk triggered the FDIC's authority—''in its sole discretion and upon such terms and conditions as the [FDIC's] Board of Directors may prescribe—to take actions to avoid or mitigate serious adverse effects on economic conditions or financial stability.'' See also Section 9(a) Tenth of the FDI Act, 12 U.S.C. 1819(a)Tenth. The FDIC implemented the TLGP in response.

[2] 73 FR 64179 (October 29, 2008). This interim rule was finalized and a final rule was published in the **Federal Register** on November 26, 2008. 73 FR 72244 (November 26, 2008).

[3] On June 23, 2009, the Board proposed two alternatives for phasing out the TAG. The first alternative provided that the TAG would expire on December 31, 2009, as required by the terms of the existing rule. The second alternative provided for a limited six-month extension to that program. Following consideration of the comments submitted in response to the two alternatives, on August 26, 2009, the Board adopted and approved for publication in the **Federal Register** a final rule providing for a six-month extension of the TAG program, through June 30, 2010. See 74 FR 45093 (September 1, 2009).

[4] 74 FR 26521 (June 3, 2009).

spreads on both TLGP debt and non-guaranteed debt indicate that access to funding has improved. Only a few entities have issued TLGP debt during the extended DGP period, and recently several banking organizations have successfully issued non-guaranteed debt. The total amount of FDIC-guaranteed debt outstanding as of October 1, 2009 under the TLGP is $300 billion.

Noting the evidence that the domestic credit and liquidity markets are beginning to normalize, on September 9, 2009, the Board authorized publication of a Notice of Proposed Rulemaking that proposed two alternatives for concluding the DGP.[5]

II. The Notice of Proposed Rulemaking

The Notice of Proposed Rulemaking (Proposed Rule) presented two alternatives for concluding the FDIC's guarantee of senior unsecured debt under the DGP, Alternative A and Alternative B.

A. Alternative A

Alternative A would have preserved the expiration dates for the issuance periods and for the duration of the guarantees under the DGP. Thus, all IDIs participating in the DGP and other participating entities that had either (i) issued guaranteed debt before April 1, 2009, or (ii) had not issued guaranteed debt before April 1, 2009, but had received the FDIC's permission to issue guaranteed debt through October 31, 2009 would be permitted to issue FDIC-guaranteed senior unsecured debt through October 31, 2009. The FDIC's guarantee for such debt issuances would expire no later than December 31, 2012.

B. Alternative B

Like Alternative A, Alternative B provided that the basic DGP would expire as structured under the existing regulation. However, Alternative B also proposed the establishment of a limited, six-month emergency guarantee facility upon expiration of the DGP on October 31, 2009.

The emergency guarantee facility under Alternative B was intended to address a participating entity's inability to replace maturing senior unsecured debt with non-guaranteed debt as a result of market disruptions or other circumstances beyond the control of the participating entity. Under this emergency guarantee facility, certain participating entities could apply to the FDIC for permission to issue FDIC-guaranteed debt after October 31, 2009. If the FDIC approved an entity's request, the FDIC would guarantee the entity's senior unsecured debt issued after October 31, 2009, through and including April 30, 2010. Any such approval would be subject to such restrictions and conditions as the FDIC deemed appropriate including, but not limited to, a pledge of collateral, and limitations on executive compensation, bonuses, or the payment of dividends. Under Alternative B, the FDIC would assess a fee using an annualized assessment rate equal to at least 300 basis points on any FDIC-guaranteed debt issued by entities under the emergency guarantee facility. The FDIC would reserve the right to increase the assessment rate on a case-by-case basis, depending upon the risks presented by the issuing entity. The FDIC's guarantee of principal and interest payments for senior unsecured debt issuances approved under the emergency guarantee facility would extend through the earliest of the mandatory conversion date (for mandatory convertible debt), the stated maturity date, or December 31, 2012. Under Alternative B, all of the terms and provisions of the FDIC's guarantee under the DGP would apply to such debt except as amended by the final rule. Further, under Alternative B, there would be no effect on any conditions that the FDIC may have placed on the issuance of debt by an IDI or other entity participating in the DGP. Any IDI participating in the DGP and any other entity participating in the DGP that has issued FDIC-guaranteed debt by September 9, 2009, would be permitted to apply to use this emergency guarantee facility.

III. Summary of Comments Received

The FDIC requested comments on all aspects of the Proposed Rule. The FDIC specifically requested that commenters indicate a preference for either Alternative A or Alternative B. The FDIC also sought comments on whether, under Alternative B, eligibility for the emergency guarantee facility should be limited to participating IDIs and to those other entities that had issued FDIC-guaranteed debt on or before September 9, 2009. In response to the request, the FDIC received four (4) comments from the following: One comment (1) from an individual; one comment (1) from an industry association; and two comments (2) from two separate groups of LL.M. candidates at a law school. A summary of the comments the FDIC received follows.

The individual commenter expressed the belief that the DGP provides a valuable service and, therefore, should not be concluded as currently structured. The commenter noted that the DGP has value as a support mechanism regardless of whether it is under-utilized.

A banking industry association commented in support of Alternative B as the most appropriate phase-out of the DGP. Specifically, the association expressed support for allowing access to the emergency guarantee facility on a limited case-by-case basis for emergency circumstances. The association also noted that domestic credit and liquidity markets have begun to normalize and the number of entities issuing debt under the DGP has decreased. The association expressed the opinion that access to the emergency guarantee facility should be limited to IDIs or other entities that have issued FDIC-guaranteed senior unsecured debt on or before September 9, 2009. The association also supported a robust participation fee and noted that such a fee could both encourage a winding down of the DGP and generate increased TLGP revenue.

The FDIC also received comment letters from two groups of law students. Both groups supported the adoption of Alternative B as the most appropriate phase-out of the DGP, and both also requested that any final rule provide the FDIC with the discretion to decrease the proposed 300 basis points assessment rate.

The FDIC is establishing the emergency guarantee facility to serve as a mechanism to phase-out the DGP, it is not intended to encourage indefinite participation. The FDIC believes that establishing a 300 basis point minimum assessment rate will provide a more effective incentive for participating entities to wean themselves off of the FDIC's guarantee program. Consequently, the FDIC has decided to retain the 300 basis point minimum assessment rate.

Regarding access to the emergency guarantee facility, one student group supported restricting access to the emergency guarantee facility as proposed in Alternative B, noting that such a restriction would both provide an adequate safeguard against dependency and ensure that the facility is available only in severe circumstances. The second student group recommended that the FDIC expand the emergency guarantee facility eligibility to all financial institutions originally eligible under the DGP. This group asserted that expanding eligibility would protect the DIF, perpetuate the objectives of the TLGP, help deserving nonparticipating institutions avoid receivership, grant the FDIC greater discretion, and result in minimal additional costs to the FDIC.

[5] 74 FR 47489 (September 16, 2009).

As noted above, the FDIC is establishing the emergency guarantee facility to phase-out the DGP in an orderly manner. Expanding access to all entities originally eligible would be inconsistent with that goal. As a result, the FDIC believes that limiting the eligibility as provided in Alternative B is the more appropriate way to achieve the goal of the emergency guarantee facility.

The two student groups also expressed a number of additional concerns regarding the proposed Alternative B. One group recommended that a final rule adopting Alternative B should include mandatory end-use restrictions, such as limitations on executive compensation. This group also recommended that the application requirements for access to the emergency guarantee facility include a statement identifying any changes from all prior plans for the retirement of FDIC-guaranteed debt that an applicant had submitted to the FDIC under the DGP. Moreover, this group recommended requiring that applications for the emergency guarantee facility include a business plan that states clear objectives for avoiding use of the emergency guarantee facility in the future. The second group expressed concern that Alternative B includes overly-broad language when describing the types of situations that would warrant granting access to the emergency guarantee facility. The group recommended that the FDIC provide clearer guidelines and principles outlining the kind of financial challenges that can be construed as stemming from market disruption. The group also recommended that the FDIC provide greater guidance on how participation in the emergency guarantee facility would impact the participant's disclosures, raising the question of whether an applicant that has been denied access to the emergency guarantee facility must disclose the fact that it has been denied such access.

The FDIC believes that the emergency guarantee facility as designed can adequately address the concerns underlying these suggestions. In order to be effective, the emergency guarantee facility must be available to handle a variety of adverse circumstances, including some that have not yet been encountered or even forseen. Providing too narrow a description of the circumstances when the facility would be available could limit its effectiveness. The FDIC also believes that imposing too many mandatory requirements could also be counterproductive. The FDIC needs flexibility in responding to these situations. Since the FDIC can impose any condition it deems appropriate and can, of course, decide not to approve an entity's use of the emergency guarantee facility, the FDIC believes that it has the ability to address these concerns and the flexibility to effectively respond to unforeseen circumstances.

IV. The Final Rule

The FDIC is adopting the proposal described in Alternative B as a final rule. As discussed below, the final rule will allow the basic DGP to expire on October 31, 2009 as currently structured. However, the final rule will also establish a limited six-month emergency guarantee facility upon the expiration of the basic DGP. The FDIC believes this approach provides the most appropriate phase-out of the basic DGP.

A. Expiration of Debt Guarantee Program

Under the final rule, the DGP will expire as currently structured under existing regulation. Thus, all IDI's participating in the DGP and other participating entities that had either (i) issued guaranteed debt before April 1, 2009, or (ii) had not issued guaranteed debt before April 1, 2009, but had received FDIC's permission to issue guaranteed debt through October 31, 2009, are permitted to issue FDIC-guaranteed senior unsecured debt through October 31, 2009. The FDIC's guarantee for such debt issuances will expire no later than December 31, 2012.

B. Emergency Guarantee Facility

Additionally, the final rule establishes a limited six-month emergency guarantee facility upon the expiration of the basic DGP. The emergency guarantee facility addresses an entity's inability to replace maturing senior unsecured debt with non-guaranteed debt as a result of market disruptions or other circumstances beyond the control of the participating entity. Under the final rule, the FDIC will guarantee senior unsecured debt issued after October 31, 2009, subject to the FDIC's prior approval on a case-by-case basis, through April 30, 2010 by certain entities participating in the DGP; such guarantee will be subject to such restrictions and conditions that the FDIC deems appropriate. The duration of the FDIC's guarantee of senior unsecured debt issuances approved under the emergency guarantee facility will extend through the earliest of the mandatory conversion date (for mandatory convertible debt), the stated maturity date, or December 31, 2012. All of the terms and provisions of the DGP that are not amended by this final rule will apply to such debt issuances. The final rule does not affect any conditions that the FDIC has placed on the issuance of debt by an IDI or other entity participating in the DGP.

Any IDI participating in the DGP and any other entity participating in the DGP that has issued FDIC-guaranteed debt by September 9, 2009, is permitted to apply to use the emergency guarantee facility.

i. Application Requirements for Participation in the Emergency Guarantee Facility

The final rule requires prior approval by the FDIC before an entity may participate in the emergency guarantee facility. Applications to participate in the emergency guarantee facility must be submitted to the Director of the Division of Supervision and Consumer Protection on or before April 30, 2010. FDIC prior approval to participate in the emergency guarantee facility will be granted on a case-by-case basis subject to such terms and conditions as the FDIC deems appropriate.

Under the final rule, participation in the emergency guarantee facility is limited. Only those eligible entities that demonstrate an inability to issue non-guaranteed debt to replace maturing senior unsecured debt as a result of market disruptions or other circumstances beyond the entity's control may apply. The final rule requires that applications to participate in the emergency guarantee facility include the following: A projection of the sources and uses of funds through December 31, 2012; a summary of the entity's contingency plans; a description of any collateral that the entity can make available to secure the entity's obligation to reimburse the FDIC for any payments made pursuant to the guarantee; a description of the plans for retirement of the FDIC-guaranteed debt; a description of the market disruptions or other circumstances beyond the entity's control that prevent the entity from replacing maturing debt with non-guaranteed debt; a description of management's efforts to mitigate the effects of such disruptions or circumstances; conclusive evidence that demonstrates the entity's inability to issue non-guaranteed debt; and any other relevant information that the FDIC deems appropriate.

ii. Participation Fee

Under the final rule, the FDIC will assess a fee equal to the amount of the debt to be guaranteed times the number of years (or portions thereof) from

issuance date through the earliest of the mandatory conversion date (for mandatory convertible debt), the stated maturity date, or December 31, 2012 times an assessment rate of at least 300 basis points on any guaranteed debt issued under the emergency guarantee facility. The FDIC reserves the right to increase the fee on a case-by-case basis, depending upon the risks presented by the issuing entity. The FDIC believes that the fee established under the final rule will provide an appropriate deterrent to applications based on other, less severe circumstances or concerns. Under the final rule, a participating entity may be required to pledge sufficient collateral to ensure the repayment of any principal and interest payments made by the FDIC under the emergency guarantee facility, subject to any other conditions and restrictions that the FDIC deems appropriate. Such conditions and restrictions may include, for example, limiting executive compensations, bonuses, or the payment of dividends.

V. Regulatory Analysis and Procedure

A. Administrative Procedure Act

The process of amending Part 370 by means of this final rule is governed by the Administrative Procedure Act (APA). Section 553(d)(3) of the APA provides that the publication of a rule shall be made not less than 30 days before its effective date, except ''as otherwise provided by the agency for good cause found and published with the rule.'' [6]

When it issued the interim rule and the final rule initially implementing the TLGP, the FDIC invoked this good cause exception based on the severe financial conditions that threatened the stability of the nation's economy generally and the banking system in particular.[7] Recently, credit and liquidity conditions have become less stressed. Narrowing spreads on both TLGP debt and non-guaranteed debt indicate that access to funding has improved. Only a few entities have issued TLGP debt during the extended DGP period, and recently several banking organizations have successfully issued non-guaranteed debt. In order to continue the orderly phase out of the basic DGP and to ensure that the creation of the emergency guarantee facility occurs at the conclusion of the basic DGP on October 31, 2009, the FDIC finds that good cause exists for an immediate effective date for the final rule.

B. Riegle Community Development and Regulatory Improvement Act

The Riegle Community Development and Regulatory Improvement Act (RCDRIA) provides that any new regulations or amendments to regulations prescribed by a Federal banking agency that impose additional reporting, disclosures, or other new requirements on IDIs shall take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form, unless the agency determines, for good cause published with the rule, that the rule should become effective before such time.[8] For the same reasons as discussed above, the FDIC finds that good cause exists for an immediate effective date for the final rule.

C. Small Business Regulator Enforcement Fairness Act

The Office of Management and Budget (OMB) has determined that this final rule is not a ''major rule'' within the meaning of the relevant sections of the Small Business Regulatory Enforcement Act of 1996 (SBREFA), 5 U.S.C. 801 *et seq.* As required by SBREFA, the FDIC will file appropriate reports with Congress and the Government Accountability Office.

D. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), the FDIC must prepare a final regulatory flexibility analysis in connection with the promulgation of a final rule,[9] or certify that the final rule will not have a significant economic impact on a substantial number of small entities.[10] For purposes of the RFA analysis or certification, financial institutions with total assets of $175 million or less are considered to be ''small entities.'' For reasons discussed below, the FDIC certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

Currently, 4,394 IDIs participate in the DGP, of which approximately 2,120 (or approximately 48 percent) are small entities. Under the final rule, all 2,120 IDIs that would be considered small entities for purposes of this analysis are eligible to apply to access the emergency guarantee facility. As a result, the FDIC asserts that the final rule may affect a substantial number of IDIs that are small entities that participate in the DGP.

Nevertheless, the FDIC has determined that the final rule's economic impact on small entities will not be significant for the following reasons. The emergency guarantee facility is designed to be accessed on an emergency case-by-case basis by IDIs (and other entities that issued debt under the DGP) only if such entities are unable to replace maturing debt as a result of market disruptions or other circumstances beyond the entities' control. Eighty-one IDIs have issued FDIC-guaranteed debt through the DGP since the program's inception. It is unlikely that a significant number of IDIs (or other qualifying entities) would satisfy the requirements to issue FDIC-guaranteed debt during such emergency circumstances. Accordingly, the final rule will not have a significant economic impact on a substantial number of small entities.

E. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), 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. This Final Rule implements Alternative B of the Notice of Proposed Rulemaking, which establishes an emergency guarantee facility to ensure an orderly phase-out of the debt guarantee component of the Temporary Liquidity Guarantee Program. Alternative B includes, in section 370.3(h)(viii), an application requirement for IDIs and non-IDIs wishing to access the emergency guarantee facility. In conjunction with publication of the Notice of Proposed Rulemaking, the FDIC submitted to OMB a request for clearance of the paperwork burden associated with the application requirement in Alternative B. That request is still pending.

The proposed rule document requested comment on the estimated paperwork burden. However, none of the comments received addressed the estimated paperwork burden. Therefore, the FDIC has not altered its initial burden estimates. The estimated burden for the application requirement, as set forth in the Notice of Proposed Rulemaking and Final Rule, is as follows:

Title: ''Temporary Liquidity Guarantee Program—Emergency Guarantee Facility.''

OMB Number: 3064—NEW.

Estimated Number of Respondents: Application to access emergency guarantee facility submitted by IDIs—8.

Application to access emergency guarantee facility submitted by non-IDIs that issued FDIC-guaranteed debt under the DGP—4.

[6] 5 U.S.C. 553(d)(3).

[7] *See* 74 FR 26521 (June 3, 2009) and 73 FR 72244 (Nov. 26, 2008).

[8] 12 U.S.C. 4802.

[9] 5 U.S.C. 604.

[10] 5 U.S.C. 605(b).

Frequency of Response: Application to access emergency guarantee facility submitted by IDIs—once.

Application to access emergency guarantee facility submitted by non-IDIs that issued FDIC-guaranteed debt under the DGP—once.

Affected Public: IDIs; thrift holding companies, bank and financial holding companies, and affiliates of IDIs that issued debt under the DGP.

Average Time per Response: Application to access emergency guarantee facility submitted by IDIs—4 hours.

Application to access emergency guarantee facility submitted by non-IDIs that issued FDIC-guaranteed debt under the DGP—4 hours.

Estimated Annual Burden: Application to access emergency guarantee facility submitted by IDIs—32 hours.

Application to access emergency guarantee facility submitted by non-IDIs that issued FDIC-guaranteed debt under the DGP—16 hours.

Total Annual Burden—48 hours.

Comment Request: The FDIC has an ongoing interest in public comments on its collections of information, including comments on: (1) Whether this collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (2) the accuracy of the estimates of the burden of the information collection, including the validity of the methodologies 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 information collection on respondents, including through the use of automated collection techniques or other forms of information technology. Comments may be submitted to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/propose.html.*
- *E-mail: comments@fdic.gov.* Include the name and number of the collection in the subject line of the message.
- *Mail:* Leneta Gregorie (202–898–3719), Counsel, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

A copy of the comment may also be submitted to the OMB Desk Officer for the FDIC, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503. All comments should refer to the ''Temporary Liquidity Guarantee Program—Emergency Guarantee Facility (OMB No. 3064—New)''.

F. Solicitation of Comments on Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act, Public Law 106–102, 113 Stat. 1338, 1471 (Nov. 12, 1999), requires the federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. In issuing the Notice of Proposed Rulemaking the FDIC requested comment on how to make the regulation easier to understand. The FDIC received one comment in response to the request. The comment supported the FDIC's use of plain language in the NPR.

G. The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The FDIC has determined that the Final Rule will not affect family well-being within the measure of section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Pub. L. 105–277, 112 Stat. 2681).

List of Subjects in 12 CFR Part 370

Banks, Banking, Bank deposit insurance, Holding companies, National banks, Reporting and recordkeeping requirements, Savings associations.

■ For the reasons discussed in the preamble, the Federal Deposit Insurance Corporation amends 12 CFR part 370 as follows:

PART 370—TEMPORARY LIQUIDITY GUARANTEE PROGRAM

■ 1. The authority citation for part 370 continues to read as follows:

Authority: 12 U.S.C. 1813(l), 1813(m), 1817(i), 1818, 1819(a)(Tenth), 1820(f), 1821(a), 1821(c), 1821(d), 1823(c)(4).

■ 2. Amend § 370.2 by revising paragraph (n) to read as follows:

§ 370.2 Definitions.

* * * * *

(n) *Issuance period.*

(1) Except as provided in paragraph (n)(2) of this section, the term ''issuance period'' means

(i) With respect to the issuance, by a participating entity that is either an insured depository institution, an entity that has issued FDIC-guaranteed debt before April 1, 2009, or an entity that has been approved pursuant to § 370.3(h) to issue FDIC-guaranteed debt after June 30, 2009, and on or before October 31, 2009, of:

(A) Mandatory convertible debt, the period from February 27, 2009, to and including October 31, 2009, and

(B) All other senior unsecured debt, the period from October 14, 2008, to and including October 31, 2009; and

(ii) With respect to the issuance, by any other participating entity, of

(A) Mandatory convertible debt, the period from February 27, 2009, to and including June 30, 2009, and

(B) All other senior unsecured debt, the period from October 14, 2008, to and including June 30, 2009.

(2) The ''issuance period'' for a participating entity that has been approved to issue FDIC-guaranteed debt pursuant to § 370.3(k) of this part is the period after October 31, 2009, and on or before April 30, 2010.

* * * * *

■ 3. Amend § 370.3 as follows:

■ a. Revise paragraph (d)(2);

■ b. Revise paragraphs (h)(1) through (h)(3), (h)(5), and (h)(6); and

■ c. Add paragraph (k), to read as follows:

§ 370.3 Debt Guarantee Program

* * * * *

(d) * * *

(2) With respect to debt that is issued on or after April 1, 2009, by a participating entity that is either an insured depository institution, a participating entity that has issued guaranteed debt before April 1, 2009, a participating entity that has been approved pursuant to § 370.3(h) to issue guaranteed debt after June 30, 2009, and on or before October 31, 2009, or a participating entity that has been approved pursuant to § 370.3(k) to issue guaranteed debt after October 31, 2009, the guarantee expires on the earliest of the mandatory conversion date (for mandatory convertible debt), the maturity date of the debt, or December 31, 2012.

* * * * *

(h) *Applications for exceptions, eligibility, and issuance of certain debt.*

(1) The following requests require written application to the FDIC and the appropriate Federal banking agency of the entity or the entity's lead affiliated insured depository institution:

(i) A request by a participating entity to establish, increase, or decrease its debt guarantee limit,

(ii) A request by an entity that becomes an eligible entity after October 13, 2008, for an increase in its presumptive debt guarantee limit of zero,

(iii) A request by a non-participating surviving entity in a merger transaction to opt in to either the debt guarantee program or the transaction account guarantee program,

(iv) A request by an affiliate of an insured depository institution to participate in the debt guarantee program,

(v) A request by a participating entity to issue FDIC-guaranteed mandatory convertible debt,

(vi) A request by a participating entity that is neither an insured depository institution nor an entity that has issued FDIC-guaranteed debt before April 1, 2009, to issue FDIC-guaranteed debt after June 30, 2009, and on or before October 31, 2009,

(vii) A request by a participating entity to issue senior unsecured non-guaranteed debt after June 30, 2009, and

(viii) A request by a participating entity to issue FDIC-guaranteed debt after October 31, 2009 under the Emergency Guarantee Facility pursuant to paragraph (k) of this section.

(2) Each letter application must describe the details of the request, provide a summary of the applicant's strategic operating plan, describe the proposed use of the debt proceeds, and

(i) With respect to an application for approval of the issuance of mandatory convertible debt, must also include:

(A) The proposed date of issuance,

(B) The total amount of the mandatory convertible debt to be issued,

(C) The mandatory conversion date,

(D) The conversion rate (i.e., the total number of shares of common stock that will result from the conversion divided by the total dollar amount of the mandatory convertible debt to be issued),

(E) Confirmation that all applications and all notices required under the Bank Holding Company Act of 1956, as amended, the Home Owners' Loan Act, as amended, or the Change in Bank Control Act, as amended, have been submitted to the applicant's appropriate Federal banking agency in connection with the proposed issuance, and

(F) Any other relevant information that the FDIC deems appropriate;

(ii) With respect to an application pursuant to paragraph (h)(1)(vi) of this section to extend the period for issuance of FDIC-guaranteed debt to and including October 31, 2009, the entity's plans for the retirement of the guaranteed debt, a description of the entity's financial history, current condition, and future prospects, and any other relevant information that the FDIC deems appropriate;

(iii) With respect to an application pursuant to paragraph (h)(1)(vii) of this section to issue senior unsecured non-guaranteed debt, a summary of the applicant's strategic operating plan and the entity's plans for the retirement of any guaranteed debt; and

(iv) With respect to an application pursuant to paragraph (h)(1)(viii) of this section to issue FDIC-guaranteed debt under the Emergency Guarantee Facility, a projection of the sources and uses of funds through December 31, 2012, a summary of the entity's contingency plans, a description of the collateral that an entity can make available to secure the entity's obligation to reimburse the FDIC for any payments made pursuant to the guarantee, a description of the plans for retirement of the FDIC-guaranteed debt, a description of the market disruptions or other circumstances beyond the entity's control that prevent the entity from replacing maturing debt with non-guaranteed debt, a description of management's efforts to mitigate the effects of such disruptions or circumstances, conclusive evidence that demonstrates an entity's inability to issue non-guaranteed debt, and any other relevant information.

(3) In addition to any other relevant factors that the FDIC deems appropriate, the FDIC will consider the following factors in evaluating applications filed pursuant to paragraph (h) of this section:

(i) For applications pursuant to paragraphs (h)(1)(i), (h)(1)(ii), (h)(1)(iii), and (h)(1)(v) of this section: The proposed use of the proceeds; the financial condition and supervisory history of the eligible/surviving entity;

(ii) For applications pursuant to paragraph (h)(1)(iv) of this section: The proposed use of the proceeds; the extent of the financial activity of the entities within the holding company structure; the strength, from a ratings perspective of the issuer of the obligations that will be guaranteed; the size and extent of the activities of the organization;

(iii) For applications pursuant to paragraph (h)(1)(vi) of this section: The proposed use of the proceeds; the entity's plans for the retirement of the guaranteed debt, the entity's financial history, current condition, future prospects, capital, management, and the risk presented to the FDIC;

(iv) For applications pursuant to paragraph (h)(1)(vii) of this section: The entity's plans for the retirement of the guaranteed debt; and

(v) For applications pursuant to paragraph (h)(1)(viii) of this section, the applicant's strategic operating plan, the proposed use of the debt proceeds, the entity's plans for the retirement of the FDIC-guaranteed debt, the entity's contingency plans, the nature and extent of the market disruptions or other circumstances beyond the entity's control that prevent the entity from replacing maturing debt with non-guaranteed debt, the collateral that an entity can make available to secure the entity's obligation to reimburse the FDIC for any payments made pursuant to the guarantee, management's efforts to mitigate the effects of such conditions or circumstances, the evidence that demonstrates an entity's inability to issue non-guaranteed debt, and the risk presented to the FDIC.

* * * * *

(5) The filing deadlines for certain applications are:

(i) At the same time the merger application is filed with the appropriate Federal banking agency, for an application pursuant to paragraph (h)(1)(iii) of this section (which must include a copy of the merger application);

(ii) October 31, 2009, for an application pursuant to paragraph (h)(1)(v) of this section that is filed by a participating entity that is either an insured depository institution, an entity that has issued FDIC-guaranteed debt before April 1, 2009, or an entity that has been approved pursuant to paragraph (h) of this section to issue FDIC-guaranteed debt after June 30, 2009, and on or before October 31, 2009;

(iii) June 30, 2009, for an application pursuant to paragraph (h)(1)(v) of this section that is filed by a participating entity other than an entity described in paragraph (h)(5)(ii) of this section;

(iv) June 30, 2009, for an application pursuant to paragraph (h)(1)(vi); and

(v) April 30, 2010, for applications pursuant to paragraph (h)(1)(viii).

(6) In granting its approval of an application filed pursuant to paragraph (h) of this section the FDIC may impose any conditions it deems appropriate, including without limitation, requirements that the issuer

(i) Hedge any foreign currency risk, or

(ii) Pledge collateral to secure the issuer's obligation to reimburse the FDIC for any payments made pursuant to the guarantee.

(iii) Limit executive compensation and bonuses, and/or

(iv) Limit or refrain from the payment of dividends.

* * * * *

(k) Emergency Guarantee Facility. In the event that a participating entity that is either an insured depository institution or an entity that has issued FDIC-guaranteed debt on or before September 9, 2009 is unable, after October 31, 2009, to issue non-

guaranteed debt to replace maturing senior unsecured debt as a result of market disruptions or other circumstances beyond the entity's control, the participating entity may, with the FDIC's prior approval under paragraph (h) of this section, issue FDIC-guaranteed debt after October 31, 2009, and on or before April 30, 2010. Any such issuance is subject to all of the terms and conditions imposed by the FDIC in its approval decision as well as all of the provisions of this part, including without limitation, the payment of the applicable assessment and compliance with the disclosure requirements.

* * * * *

■ 4. Amend § 370.5 as follows:

■ a. Revise paragraph (f); and

■ b. Revise paragraph (h)(2), to read as follows:

§ 370.5 Participation.

* * * * *

(f) Except as provided in paragraphs (g), (j), and (k) of § 370.3, participating entities are not permitted to select which newly issued senior unsecured debt is guaranteed debt; all senior unsecured debt issued by a participating entity up to its debt guarantee limit must be issued and identified as FDIC-guaranteed debt as and when issued.

* * * * *

(h) * * *

(2) Each participating entity that is either an insured depository institution, an entity that has issued FDIC-guaranteed debt before April 1, 2009, an entity that has been approved pursuant to § 370.3(h) to issue FDIC-guaranteed debt after June 30, 2009, and on or before October 31, 2009, or a participating entity that has been approved pursuant to § 370.3(k) to issue FDIC-guaranteed debt after October 31, 2009, must include the following disclosure statement in all written materials provided to lenders or creditors regarding any senior unsecured debt that is issued by it during the applicable issuance period and that is guaranteed under the debt guarantee program:

This debt is guaranteed under the Federal Deposit Insurance Corporation's Temporary Liquidity Guarantee Program and is backed by the full faith and credit of the United States. The details of the FDIC guarantee are provided in the FDIC's regulations, 12 CFR Part 370, and at the FDIC's Web site, http://www.fdic.gov/tlgp. [If the debt being issued is mandatory convertible debt, add: *The expiration date of the FDIC's guarantee is the earlier of the mandatory conversion date or December 31, 2012*]. [If the debt being issued is any other senior unsecured debt, add: *The expiration date of the FDIC's guarantee is the earlier of the maturity date of the debt or December 31, 2012.*]

* * * * *

■ 5. Amend § 370.6 as follows:

■ a. Revise paragraph (d)(1); and

■ b. Add paragraph (i), to read as follows:

§ 370.6 Assessments under the Debt Guarantee Program.

* * * * *

(d) *Amount of assessments for debt within the debt guarantee limit*

(1) *Calculation of assessment.* Subject to paragraphs (d)(3) and (h) of this section, and except as provided in paragraph (i) of this section, the amount of assessment will be determined by multiplying the amount of FDIC-guaranteed debt times the term of the debt or, in the case of mandatory convertible debt, the time period from issuance to the mandatory conversion date, times an annualized assessment rate determined in accordance with the following table.

For debt with a maturity or time period to conversion date of—	The annualized assessment rate (in basis points) is—
180 days or less (excluding overnight debt)	50
181–364 days	75
365 days or greater	100

* * * * *

(i) *Assessment for debt issued under the Emergency Guarantee Facility.* The amount of the assessment for FDIC-guaranteed debt issued pursuant to § 370.3(k) of this part is equal to the amount of the debt times the term of the debt (or in the case of mandatory convertible debt, the time period to conversion) times an annualized assessment rate of 300 basis points, or such greater rate as the FDIC may determine in its decision approving such issuance.

By order of the Board of Directors.

Dated at Washington, DC, this 20th day of October 2009.

Robert E. Feldman,

Executive Secretary, Federal Deposit Insurance Corporation.

[FR Doc. E9–25555 Filed 10–22–09; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 514

[Docket No. FDA–2009–N–0436]

New Animal Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations regarding new animal drug applications (NADAs). Specifically, this direct final rule is being issued to provide that NADAs shall be submitted in the described form, as appropriate for the particular submission. Currently, the regulation requires that all NADAs contain the same informational sections and does not explicitly provide the appropriate flexibility needed to address the development of all types of new animal drug products. This amendment will allow the agency to appropriately review safety and effectiveness data submitted to support the approval of new animal drug products. FDA is amending the regulations in accordance with its direct final rule procedures.

Elsewhere in this issue of the **Federal Register**, we are publishing a companion proposed rule, under FDA's usual procedure for notice-and-comment rulemaking, to provide a procedural framework to finalize the rule in the event the agency receives any significant adverse comments and withdraws this direct final rule. The companion proposed rule and this direct final rule are substantively identical.

DATES: This rule is effective March 8, 2010. Submit written comments on or before January 6, 2010. If FDA receives no significant adverse comments within the specified comment period, the agency will publish a document confirming the effective date of the final rule in the **Federal Register** within 30 days after the comment period on this direct final rule ends. If timely significant adverse comments are received, the agency will publish a document in the **Federal Register** withdrawing this direct final rule before its effective date.

ADDRESSES: You may submit comments, identified by Docket No. FDA–2009–N–0436 by any of the following methods:

Electronic Submissions

Submit electronic comments in the following ways:

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

Written Submissions

Submit written submissions in the following ways:

• FAX: 301–827–6870.

• Mail/Hand delivery/Courier [For paper, disk, or CD–ROM submissions]: Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

To ensure more timely processing of comments, FDA is no longer accepting comments submitted to the agency by e-mail. FDA encourages you to continue to submit electronic comments by using the Federal eRulemaking Portal, as described previously, in the **ADDRESSES** portion of this document under *Electronic Submissions*.

Instructions: All submissions received must include the agency name and Docket No. for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov*, including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Urvi Desai, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8297, e-mail: *urvi.desai@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

This direct final rule is being issued to amend § 514.1 (21 CFR 514.1) so as to provide that NADAs shall include the information described in the section, as appropriate for the particular submission. Currently, the regulation requires that all NADAs contain the same informational sections and does not explicitly provide the appropriate flexibility needed to address the development of all types of new animal drug products. This amendment will allow the agency to appropriately review safety and effectiveness data submitted to support the approval of new animal drug products. In addition, the amendment is similar to the current provisions of the human new drug application regulations at 21 CFR 314.50 and thus will make the new human and new animal drug regulations more consistent.

II. Direct Final Rulemaking

In the **Federal Register** of November 21, 1997 (62 FR 62466), FDA announced the availability of the guidance document entitled ''Guidance for FDA and Industry: Direct Final Rule Procedures.'' This guidance document may be accessed at *http://www.fda.gov/RegulatoryInformation/Guidances/ucm125166.htm.* FDA believes that this rule is appropriate for direct final rulemaking because it is intended to make non-controversial changes to existing regulations. We anticipate no significant adverse comments. Consistent with FDA's procedures on direct final rulemaking, we are publishing elsewhere in this issue of the **Federal Register** a companion proposed rule. The companion proposed rule provides the procedural framework within which the rule may be finalized in the event the direct final rule is withdrawn because of any significant adverse comment. The comment period for this direct final rule runs concurrently with the comment period of the companion proposed rule. Any comments received in response to the companion proposed rule will also be considered as comments regarding this direct final rule.

FDA is providing a comment period on the direct final rule of 75 days after the date of publication in the **Federal Register**. If FDA receives any significant adverse comment, we intend to withdraw this direct final rule before its effective date by publication of a notice in the **Federal Register** within 30 days after the comment period ends. A significant adverse comment is defined as a comment that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without change. In determining whether an adverse comment is significant and warrants withdrawing a direct final rule, we will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process in accordance with section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553). Comments that are frivolous, insubstantial, or outside the scope of the rule will not be considered significant or adverse under this procedure. For example, a comment recommending an additional change to the rule will not be considered a significant adverse comment, unless the comment states why the rule would be ineffective without the additional change. In addition, if a significant adverse comment applies to part of a rule and that part can be severed from the remainder of the rule, we may adopt as final those parts of the rule that are not the subject of a significant adverse comment.

If any significant adverse comments are received during the comment period, FDA will publish, before the effective date of the direct final rule, a document withdrawing the direct final rule. If we withdraw the direct final rule, all comments received will be considered under the companion proposed rule in developing a final rule using the usual notice-and-comment procedures under the APA (5 U.S.C. 552 *et seq.*). If we receive no significant adverse comment during the specified comment period, we intend to publish a document in the **Federal Register** confirming the effective date within 30 days after the comment period ends.

III. Legal Authority

FDA's authority to issue this direct final rule is provided by section 512(b)(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(b)(1)). This section states that any person may file with the Secretary of Health and Human Services an application with respect to any intended use or uses of a new animal drug and sets forth the specific information that must be included in such an application. In addition, section 701(a) of the act (21 U.S.C. 371(a)) gives FDA general rulemaking authority to issue regulations for the efficient enforcement of the act. FDA is issuing this direct final rule under these authorities.

IV. Environmental Impact

FDA has carefully considered the potential environmental impacts of this rule and determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Analysis of Economic Impacts

FDA has examined the impacts of the direct final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory

alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this direct final rule is not a significant regulatory action under the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the direct final rule would not impose any direct or indirect costs on industry or government through the amendment, but rather would only clarify that sponsors must include in their applications the information described in § 514.1 that is appropriate for their particular submission, the agency certifies that the direct final rule would not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $133 million, using the most current (2008) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this direct final rule to result in any 1-year expenditure that would meet or exceed this amount.

VI. Federalism

FDA has analyzed this direct final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the agency has concluded that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

VII. Paperwork Reduction Act of 1995

This direct final rule refers to previously approved collections of information found in FDA regulations. The direct final rule amends these previously approved collections of information by clarifying that NADAs must contain the information appropriate for the particular submission. Further, this amendment is based upon the Center for Veterinary Medicine's previous experience with these submissions. Thus, § 514.1 as amended, does not constitute a new or additional paperwork burden requiring Office of Management and Budget (OMB) approval.

Collections of information are subject to review by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in § 514.1 have been approved under OMB Control No. 0910–0032. This approval expires April 30, 2011. An agency may not conduct and a person is not required to respond to a collection of information unless it displays a valid OMB control number.

VIII. Request for 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.

List of Subjects in 21 CFR Part 514

Administrative practice and procedure, Animal drugs, Confidential business information, Reporting and recordkeeping requirements.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 514 is amended as follows:

PART 514—NEW ANIMAL DRUG APPLICATIONS

■ 1. The authority citation for 21 CFR part 514 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 356a, 360b, 371, 379e, 381.

■ 2. In § 514.1, revise the first sentence of paragraph (a) and the introductory text of paragraph (b) to read as follows:

§ 514.1 Applications.

(a) Applications to be filed under section 512(b) of the act shall be submitted in the form and contain the information described in paragraph (b) of this section, as appropriate to support the particular submission. * * *

(b) Applications for new animal drugs shall be submitted in triplicate and assembled in the manner prescribed by paragraph (b)(15) of this section, and shall include the following information, as appropriate to support the particular submission: * * *

* * * * *

Dated: October 19, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–25517 Filed 10–22–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF DEFENSE

Office of the Secretary

[DOD–2009–OS–0141; RIN 0790–AI59]

32 CFR Part 279

Retroactive Stop Loss Special Pay Compensation

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, DoD.

ACTION: Interim final rule.

SUMMARY: This part provides for Retroactive Stop Loss Special Pay as authorized and appropriated in The Supplemental Appropriations Act, 2009.

The prompt implementation of the Interim Final Rule is of critical importance as Congress dictated the program be implemented within 120 days following the signing of the ''The Supplemental Appropriations Act, 2009. It was signed June 24, 2009. Additionally, this program is of short duration, from October 21, 2009 to October 21, 2010. The last day for submission of claims to the Secretaries of the Military Departments for Retroactive Stop Loss Special Pay is October 21, 2010. The Secretaries concerned are not authorized to make payments on claims submitted after October 21, 2010. The statutory deadline provides good cause, pursuant to 5 U.S.C. 553(d)(3), to make this rule effective immediately upon publication.

DATES: This rule is effective October 21, 2009. Comments must be received by December 22, 2009.

ADDRESSES: You may submit comments, identified by docket number and/or RIN number and title, by any of the following methods:

• *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: LTC Brigitte Williams, (703) 614–3973.

SUPPLEMENTARY INFORMATION: This part provides for Retroactive Stop Loss Special Pay as authorized and appropriated in The Supplemental Appropriations Act, 2009 (Section 310 of Pub. L. 111–32) and as described in this herein.

Executive Order 12866, ''Regulatory Planning and Review''

It has been certified that 32 CFR part 279 does:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities. The Supplemental Appropriations Act, 2009 appropriated $534,400,000 to the Department of Defense, to remain available for obligation until expended: Provided, That such funds shall be available to the Secretaries of the military departments only to make payment of claims specified by this law.

It has been certified that 32 CFR part 279 does not:

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

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

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Congressional Review Act, 5 U.S.C. 801, et seq.

It has been certified that this rule is a major rule under the Congressional Review Act. This rule will have an annual effect on the economy of $100 million or more. For the same reason for which this is an Interim Final Rule, specifically the congressionally mandated deadline to begin the program, 5 U.S.C. 801(a)(3) does not apply.

Sec. 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

It has been certified that 32 CFR part 279 does not contain a Federal mandate resulting in expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

It has been certified 32 CFR part 279 is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

Section(s) 279.4(b) of this Interim Final Rule contains information collection requirements. DoD has submitted the following proposal to OMB under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

Title: Retroactive Stop Loss Special Pay Compensation.

Type of Request: New.

Estimated Annual Number of Respondents: 185,887 (Total DoD estimate)

Responses per Respondent: 1 claim per respondent.

Estimated Total Annual Responses: 185,887.

Average Burden per Response: 30 minutes (This claim should take 30 minutes depending on how many supporting documents a member requires for evidence/proof for their circumstance.)

Annual Burden Hours: 92,943.5 hours.

Needs and Uses: The Military Departments are to determine and certify who is eligible to receive the Retroactive Stop Loss Special Pay and provide this information to the Defense Finance and Accounting Service for payment.

Affected Public: Former Service members.

Frequency: One-time.

Respondent's Obligation: To obtain or retain benefits.

OMB Desk Officer: Ms Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms Jasmeet Seehra at the Office of Management and Budget, DoD Desk Officer, Room 10102, New Executive Office Building, Washington, DC 20503, with a copy to LTC Brigitte Williams, Assistant Director, Enlisted Personnel, Office of the Under Secretary of Defense for Personnel and Readiness, Pentagon 2B265; Phone (703) 693–3973. Comments can be received from 30 to 60 days after the date of this notice, but comments to OMB will be most useful if received by OMB within 30 days after the date of this notice.

You may also submit comments, identified by docket number and title, by the following method: Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to LTC Brigitte Williams, Assistant Director, Enlisted Personnel, Office of the Under Secretary of Defense for Personnel and Readiness, Pentagon 3C1063; Phone (703) 693–3973.

Executive Order 13132, ''Federalism''

It has been certified that 32 CFR part 279 does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

(2) The relationship between the National Government and the States; or

(3) The distribution of power and responsibilities among the various levels of Government.

List of Subjects in 32 CFR Part 279

Armed forces, Pay.

■ Accordingly 32 CFR Part 279 is added to read as follows:

PART 279—RETROACTIVE STOP LOSS SPECIAL PAY COMPENSATION

Sec.
279.1 Purpose.
279.2 Eligibility.
279.3 Payment.
279.4 Claims process.
279.5 Recordkeeping.
279.6 Reporting.

Authority: Sec. 310, Pub. L. 111–32

§ 279.1 Purpose.

This part provides for Retroactive Stop Loss Special Pay as authorized and appropriated in Section 310 of Public Law 111–32 and as described in this part.

§ 279.2 Eligibility.

(a) The Secretaries concerned shall employ the Retroactive Stop Loss Special Pay authority and appropriated funding to compensate Service members, including members of the Reserve components, former and retired members under the jurisdiction of the Secretary who, at any time during the period beginning on September 11, 2001, and ending on September 30, 2009, served on active duty while the Service members' enlistment or period of obligated service was extended, or whose eligibility for retirement was suspended pursuant to any provision of law authorizing the President to extend any period of obligated service, or suspend eligibility for retirement, of a Service member in time of war or of national emergency declared by Congress or the President (commonly referred to as a ''stop loss authority'').

(b) Service members who were discharged or released from the Armed Forces under other than honorable conditions are not permitted to receive Retroactive Stop Loss Special Pay under Section 310 of Public Law 111–32.

§ 279.3 Payment.

(a) The amount of compensation shall be $500 per month for each month or any portion of a month during the period specified above that the member was retained on active duty as a result of application of the Stop Loss Authority. The Military Departments are to determine and certify who is eligible to receive the Retroactive Stop Loss Special Pay and provide this information to the Defense Finance and Accounting Service (DFAS) for payment. Except as noted this section, retroactive Stop Loss Special Pay is payable to a member under this section in addition to any other amounts payable or paid to the member by law or policy.

(b) Payment rules are:

(1) Service members will not receive a payment under ''The Supplemental Appropriations Act, 2009'', Section 310 of Public Law 111–32 and ''Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009'', Section 8116 of Public Law 110–329, for the same month or portion of a month during which the member was retained on active duty under Stop Loss Authority as outlined in the Secretary of Defense Memorandum dated March 19, 2009, Subject: Stop Loss Special Pay.

(2) By law, Reserve Component members retained under Stop Loss Authority will receive Retroactive Stop Loss Special Pay only for service on active duty. As such, Reserve Component members may have periods before mobilization and after demobilization while under Stop Loss Authority where no Retroactive Stop Loss Special Pay can be paid.

(3) Retroactive Stop Loss Special Pay is subject to all applicable taxes.

§ 279.4 Claims process.

(a) The last day for submission of claims to the Secretaries of the Military Departments for Retroactive Stop Loss Special Pay is October 21, 2010. The Secretaries concerned are not authorized to make payments on claims that are submitted after October 21, 2010.

(b) The additional period between the date of Under Secretary of Defense for Personnel and Readiness Memorandum, Subject: Retroactive Stop Loss Special Pay Compensation signed on September 23, 2009 and October 21, 2009 is provided for the Military Departments to:

(1) Identify and formally notify members or former members that official records indicate their potential eligibility for Retroactive Stop Loss Special Pay. This notification should reflect the estimated number of eligible months and the projected special pay amount along with guidance about how to submit a claim. Special care should be taken to work with family members of eligible Service members who are deceased. These family members may not be knowledgeable of the process and will require additional assistance after filing their claim.

(2) Make a public announcement of the Retroactive Stop Loss Special Pay Authority highlighting the scope of the program, who qualifies for the benefits, and how to submit a claim to a Service point of contact. The Service contact information will be provided in all public releases by the Office of Secretary of Defense (OSD) Public Affairs Office, as well as by each of the Services Public Affairs Offices.

(3) Establish and publish evidentiary requirements beyond those listed in this paragraph to support an unrecorded extension under Stop Loss Authority. Official documents may include but are not limited to:

(i) DD 214 Form, Certificate of Release or Discharge from Active Duty and/or DD 215, Correction to DD 214.

(ii) Personnel record or enlistment or reenlistment document recording original expiration of service date.

(iii) Approved retirement memorandum or orders establishing retirement prior to actual date of retirement as stipulated in DD Form 214 or DD Form 215.

(iv) Approved resignation memorandum or transition orders establishing a separation date prior to actual date of separation as stipulated in DD Form 214 or DD Form 215.

(v) Signed documentation or affidavit from knowledgeable officials from the individual's chain of command.

(4) Establish claim and appellate procedures, Web sites, points of contact for assistance or other outreach mechanisms to inform and expedite claims. Publish information on use of Board for Correction of Military/Naval Records.

(5) Claim is submitted and adjudicated by the Service, then sent forward to the Defense Finance and Accounting Service (DFAS) for payment. Upon arrival DFAS will route claim to Debt Claims Management who will process the claim. Payments are then routed through Disbursing and then to Standards and Compliance. Then Disbursing will make payment to the former Service member or estate. Standards and Compliance will build and route reports for OSD and personnel centers.

§ 279.5 Recordkeeping.

The Military Departments will maintain a by-name accounting of claims that will allow aggregate summaries to depict:

(a) The number of claims filed.

(b) The number of claims approved.

(c) The number of claims denied and the reasons why (especially with regard to subparagraph (h) of Section 310 of Pub. L. 111–32).

(d) The number of appeals.

(e) The number of claims pending and the reasons why.

(f) The amount of funding that has been obligated, to include mean and median payments provided per claimant, the number of claims and

payments made in accordance with section 2771 of title 10, United States Code for deceased claimants.

(g) The mean and median processing times from receipt of claim to payment.

§ 279.6 Reporting.

The Department of Defense shall provide a consolidated report to the congressional defense committees on the implementation of Section 310 of Pub. L. 111–32. As such, the Under Secretary of Defense for Personnel and Readiness, in coordination with the Under Secretary of Defense (Comptroller), will establish data formats and narrative requirements for a cumulative quarterly report beginning January 21, 2010, to monitor the program and the remaining balance of funding appropriated for this purpose.

Dated: October 21, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–25664 Filed 10–21–09; 4:15 pm]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket Number USCG–2009–0913]

Drawbridge Operation Regulations; Upper Mississippi River, Clinton, IA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation governing the operations of the Clinton Railroad Drawbridge across the Upper Mississippi River, Mile 518.0, Clinton, Iowa. The deviation is necessary to allow time for performing needed maintenance and repairs to the bridge. This deviation allows the bridge to open on signal if at least 24 hours' advance notice is given from 12:01 a.m., December 15, 2009 until 9 a.m., March 15, 2010.

DATES: This deviation is effective from 12:01 a.m., December 15, 2009 until 9 a.m., March 15, 2010.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2009–0913 and are available online by going to *http://www.regulations.gov*, inserting USCG–2009–0913 in the ''Keyword'' and then clicking ''Search''. They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Roger K. Wiebusch, Bridge Administrator, Coast Guard; telephone (314) 269–2378, e-mail *Roger.K.Wiebusch@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION: The Union Pacific Railroad Company requested a temporary deviation for the Clinton Railroad Drawbridge, across the Upper Mississippi, mile 518.0, at Clinton, Iowa to open on signal if at least 24 hours' advance notice is given in order to facilitate needed bridge maintenance and repairs. The Clinton Railroad Drawbridge currently operates in accordance with 33 CFR 117.5, which states the general requirement that drawbridges shall open promptly and fully for the passage of vessels when a request to open is given in accordance with the subpart. In order to facilitate the needed bridge work, the drawbridge must be kept in the closed-to-navigation position. This deviation allows the bridge to open on signal if at least 24 hours' advance notice is given from 12:01 a.m. December 15, 2009 until 9 a.m., March 15, 2010.

There are no alternate routes for vessels transiting this section of the Upper Mississippi River.

The Clinton Railroad Drawbridge, in the closed-to-navigation position, provides a vertical clearance of 18.7 feet above normal pool. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. This temporary deviation has been coordinated with waterway users. No objections were received.

In accordance with 33 CFR 117.35(e), the drawbridge shall return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: October 6, 2009.

Roger K. Wiebusch,

Bridge Administrator.

[FR Doc. E9–25598 Filed 10–22–09; 8:45 am]

BILLING CODE 4910–15–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3030

[Docket No. RM2010–2; Order No. 314]

Modification of Complaint Rules

AGENCY: Postal Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: Under new rules, postal complaints must be served on both the Commission and the Postal Service. This document informs the public of a change in the email account for service on the Postal Service.

DATES: This rule is effective December 2, 2009 without further action, unless adverse comment is received by November 23, 2009. If adverse comment is received, the Commission will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Commenters who cannot submit their views electronically should contact the person identified in **FOR FURTHER INFORMATION CONTACT** by telephone for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820 or *stephen.sharfman@prc.gov.*

SUPPLEMENTARY INFORMATION:

Regulatory History, 74 FR 16734 (April 10, 2009).

Section 3030.11 of the Commission's rules, 39 CFR 3030.11, specifies that complainants must serve their complaints on the Postal Service via email at a specified email address. This order changes the email address referenced in 39 CFR 3030.11. To accurately reflect the current status, the email address listed in that section is, by this order, changed from ''*Sandra.t.broadus@usps.gov*'' to ''*PRCCOMPLAINTS@usps.gov.*''

Notice and effective date. Given the nature and limited extent of this change, the Commission is adopting it as a direct final rule. This rule is effective 40 days after publication in the **Federal Register** without further Commission action, unless the Commission receives adverse comment within 30 days of publication in the **Federal Register**.[1] If adverse comment is received, the Commission will publish a timely withdrawal of the rule in the **Federal**

[1] *See* Administrative Conference of the United States Recommendation 95–4, Procedures for Noncontroversial and Expedited Rulemaking, 60 FR 43110–13, August 18, 1995.

Register. The Commission directs the Secretary to arrange for publication of this order in the **Federal Register**.

It is ordered:

1. The Commission adopts the direct final rule that follows the Secretary's signature into the Commission's Rules of Practice and Procedure.

2. Interested persons may submit comments within 30 days of publication in the **Federal Register**.

3. The Secretary shall arrange for publication of this order in the **Federal Register**. These actions will take effect 40 days after publication in the **Federal Register**.

List of Subjects in 39 CFR Part 3030

Administrative practice and procedure; Postal Service.

By the Commission.

Shoshana M. Grove,

Secretary.

■ For the reasons stated in the preamble, under the authority at 39 U.S.C. 503, the Postal Regulatory Commission amends chapter III of title 39 of the Code of Federal Regulations as follows:

PART 3030—RULES FOR COMPLAINTS

■ 1. The authority citation for part 3030 continues to read as follows:

Authority: 39 U.S.C. 503; 3662.

■ 2. Revise § 3030.11 to read as follows:

§ 3030.11 Service.

Any person filing a complaint must simultaneously serve a copy of the complaint on the Postal Service at the following address: *PRCCOMPLAINTS@usps.gov.* A complaint is not deemed filed until it is served on the Postal Service. A waiver may be obtained pursuant to § 3001.9(a) of this chapter.

[FR Doc. E9–25343 Filed 10–22–09; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2005–KY–0003; FRL–8972–2]

Approval and Promulgation of Implementation Plans; Kentucky: NO_X SIP Call Phase II

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve the State Implementation Plan (SIP) revisions submitted by the Commonwealth of Kentucky on September 12, 2005, and March 24, 2006. The first revision provides Kentucky's response to EPA's regulations entitled, ''Finding of Significant Contribution and Rulemaking for Certain States in Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone,'' otherwise known as the ''Nitrogen Oxides (NO_X) SIP Call Phase I.'' The second revision responds to EPA's regulations entitled, ''Interstate Ozone Transport: Response to Court Decisions on the NO_X SIP Call, NO_X SIP Call Technical Amendments, and Section 126 Rules,'' otherwise known as the ''NO_X SIP Call Phase II.'' EPA proposed to approve Kentucky's request to revise the SIP on May 29, 2009. This action is being taken pursuant to Section 110 of the Clean Air Act (CAA).

DATES: *Effective Date:* This rule will be effective November 23, 2009.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R04–OAR–2005–KY–0003. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Deanne Grant, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9291. Ms. Grant can also be reached via electronic mail at *grant.deanne@epa.gov.* For information relating to the Kentucky SIP, please contact Mr. Zuri Farngalo at (404) 562–9152. Mr. Farngalo can also be reached via electronic mail at *farngalo.zuri@epa.gov.*

SUPPLEMENTARY INFORMATION:

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IV. Statutory and Executive Order Reviews

I. EPA's Action

EPA is taking final action to approve SIP revisions submitted by the Commonwealth of Kentucky on September 12, 2005, and March 24, 2006. The first revision provides Kentucky's response to EPA's regulations entitled, ''Finding of Significant Contribution and Rulemaking for Certain States in Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone,'' otherwise known as the ''Nitrogen Oxides (NO_X) SIP Call Phase I.'' The second revision responds to EPA's regulations entitled, ''Interstate Ozone Transport: Response to Court Decisions on the NO_X SIP Call, NO_X SIP Call Technical Amendments, and Section 126 Rules,'' otherwise known as the ''NO_X SIP Call Phase II.''

The NO_X SIP Call Phase II revision satisfies EPA's rule that requires Kentucky to submit Phase II revisions necessary to achieve applicable, incremental reductions of NO_X. The intended effect of the Phase II SIP revision is to reduce emissions of NO_X originating in the Commonwealth of Kentucky to help attain and maintain the national ambient air quality standard for ozone. The March 24, 2006, final submittal stopped the Federal implementation plan (FIP) clock that started on February 8, 2006, when EPA made a finding that Kentucky failed to submit the required SIP for Phase II of the NO_X SIP Call by April 1, 2005.

EPA proposed to approve Kentucky's request to amend the SIP on May 29, 2009 (74 FR 25686). In that proposal, EPA also stated its intent to remove compliance requirements of the NO_X SIP Call Phase I. The comment period closed on June 29, 2009. No comments were received in regard to this action. EPA is finalizing the approval as proposed based on the rationale stated in the proposal and in this final action.

II. Background

On January 31, 2002, the Kentucky Environmental and Public Protection Cabinet (KEPPC) submitted final revisions to its SIP that complied with the requirements of Phase I of the NO_X SIP Call. EPA approved the revisions on April 11, 2002 (67 FR 17624), which

became effective on June 10, 2002. On April 21, 2004, EPA published a final rule, addressing the remanded portion of the NO_X SIP Call Rule. This rule is entitled, ''Interstate Ozone Transport: Response to Court Decisions on the NO_X SIP Call, NO_X SIP Call Technical Amendments, and Section 126 Rules,'' and is otherwise known as the ''NO_X SIP Rule Phase II'' (69 FR 21604). Phase II of the NO_X SIP Call required Kentucky to reduce the Phase I NO_X emissions originating in the Commonwealth from 165,075 tons (Phase I Budget) to 162,519 tons (Phase II Budget) of NO_X emissions. (69 FR 21604, 21629, April 21, 2004). However, EPA approved a revised Phase I Budget for Kentucky in a revision to the NO_X SIP Call submitted on April 11, 2002 (67 FR 17624). Therefore, the final Kentucky Phase II Budget in the April 21, 2004, notice is inaccurate because it is based on the previous Phase I Budget. The current approved Kentucky Phase II Budget for NO_X emissions is 162,863 tons.

On January 23, 2004, EPA wrote a letter to KEPPC clarifying that based on current rules and regulations, including the NO_X SIP Call Phase I rulemaking (63 FR 57356, 57416) and 40 CFR 96.2, EPA was allowing each State with one or more carbon monoxide (CO) boiler combusting CO from fluidized catalytic cracking units (FCCUs) to determine whether all of the Commonwealth's FCCU–CO boilers were covered by the NO_X SIP Call trading program. There is currently only one facility in Kentucky with FCCU–CO boilers (the Ashland Oil facility, located in Ashland, Kentucky). Kentucky elected to exclude all FCCU–CO boilers in the Commonwealth from the NO_X trading program. Today's action removes the requirement from the Kentucky SIP that such units comply with the NO_X SIP Call Phase I by exempting them from the non-EGU portion of the Kentucky NO_X budget. However, Kentucky is still able to meet the Phase II budgets through other reductions. For more information regarding the specifics of Phase I source categories and budgets, see 67 FR 17624 (April 11, 2002).

On September 12, 2005, the KEPPC provided a submittal for parallel processing of its SIP regulation revisions, intended to meet the requirements of the NO_X SIP Call Phase II. A public hearing was conducted on October 21, 2005. On March 24, 2006, Kentucky submitted the final SIP revision for approval. The March 24, 2006, submittal stopped the FIP clock that started under the CAA following EPA's February 8, 2006, finding that Kentucky failed to submit the required SIP revisions for Phase II of the NO_X SIP Call by April 1, 2005 (71 FR 6347, February 8, 2006).

III. Final Action

EPA is taking final action to approve the aforementioned changes to the SIP, including Kentucky's NO_X SIP Call Phase II budget. These revisions meet CAA requirements and are consistent with EPA policy and regulations.

IV. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive 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 CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, 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.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 22, 2009. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: October 9, 2009.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart S—Kentucky

■ 2. In § 52.920(c), Table 1 is amended:

■ a. Under Chapter 51, by adding an entry for ''401 KAR 51:150—NO_X requirements for stationary internal combustion engines''; and

■ b. Under Chapter 51, by revising the entry for ''401 KAR 51:160—NO_X requirements for large utility and industrial boilers'' to read as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

TABLE 1—EPA-APPROVED KENTUCKY REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
Chapter 51. Attainment and Maintenance of the National Ambient Air Quality Standards				
*	*	*	*	*
401 KAR 51:150	NO_X requirements for stationary internal combustion engines.	2/3/06	10/23/09 [Insert citation of publication]	
*	*	*	*	*
401 KAR 51:160	NO_X requirements for large utility and industrial boilers.	2/3/06	10/23/09 [Insert citation of publication]	
*	*	*	*	*

* * * * *

[FR Doc. E9–25456 Filed 10–22–09; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 070717342–7713–02]

RIN 0648–XS18

Fisheries of the Northeastern United States; Atlantic Surfclam and Ocean Quahog Fisheries; Suspension of Minimum Atlantic Surfclam Size Limit for Fishing Year 2010

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

ACTION: Temporary rule; suspension of the Atlantic surfclam minimum size limit.

SUMMARY: NMFS suspends the minimum size limit for Atlantic surfclams for the 2010 fishing year. This action is taken under the authority of the implementing regulations for this fishery, which allow for the annual suspension of the minimum size limit based upon set criteria. The intended effect is to relieve the industry from a regulatory burden that is not necessary, as the majority of surfclams harvested are larger than the minimum size limit.

DATES: Effective January 1, 2010, through December 31, 2010.

ADDRESSES: Written inquiries may be sent to: Regional Administrator, National Marine Fisheries Service, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930–2298.

FOR FURTHER INFORMATION CONTACT: Anna Macan, Fishery Management Specialist, (978) 281–9165; fax (978) 281–9135.

SUPPLEMENTARY INFORMATION: Section 648.72(c) of the regulations implementing the Fishery Management Plan (FMP) for the Atlantic Surfclam and Ocean Quahog Fisheries authorizes the Administrator, Northeast Region, NMFS (Regional Administrator), to suspend annually, by publication of a notification in the **Federal Register**, the minimum size limit for Atlantic surfclams. This action may be taken unless discard, catch, and biological sampling data indicate that 30 percent of the Atlantic surfclam resource is smaller than 4.75 inches (120 mm) and the overall reduced size is not attributable to harvest from beds where growth of the individual clams has been reduced because of density-dependent factors.

At its June 2009 meeting, the Mid-Atlantic Fishery Management Council voted to recommend that the Regional Administrator suspend the minimum size limit for the 2010 fishing year. In accordance with the provisions of the FMP, the Regional Administrator will publish the suspension of the surfclam minimum size if the proportion of undersized surfclams is under 30 percent of the total surfclam landings for each fishing year.

Commercial surfclam data for 2009 were analyzed to determine the percentage of surfclams that were smaller than the minimum size requirement. The analysis indicated that 6.10 percent of the overall commercial landings were composed of surfclams that were less than 4.75 inches (120 mm). Based on these data, the Regional Administrator adopts the Council's recommendation and suspends the minimum size limit for Atlantic surfclams from January 1 through December 31, 2010.

Classification

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

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

Dated: October 19, 2009.

Emily H. Menashes,

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

[FR Doc. E9–25547 Filed 10–22–09; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 74, No. 204
Friday, October 23, 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.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 354

[Docket No. APHIS–2009–0048]

RIN 0579–AC99

User Fees for Agricultural Quarantine and Inspection Services; Public Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: We are informing the public of an upcoming meeting to address affected stakeholders' questions and concerns regarding the agricultural quarantine and inspection user fee increases scheduled to go into effect on November 1, 2009. The meeting is being organized by the Animal and Plant Health Inspection Service.

DATES: The meeting will be held on October 27, 2009, from 9 a.m. to 1 p.m. Registration will begin at 8:30 a.m.

ADDRESSES: The public meeting will be held in the USDA Center at Riverside, 4700 River Road, Riverdale, MD.

FOR FURTHER INFORMATION CONTACT: Mr. William E. Thomas, Director, Quarantine Policy, Analysis, and Support, PPQ, APHIS, 4700 River Road, Unit 131, Riverdale, MD 20737; (301) 734–5214.

SUPPLEMENTARY INFORMATION: In an interim rule [1] published in the **Federal Register** on September 28, 2009 (74 FR 49311–49315, Docket No. APHIS–2009–0048), we amended the user fee regulations in 7 CFR part 354 by adjusting the fees charged for certain agricultural quarantine and inspection (AQI) services that are provided in connection with certain commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers arriving at ports in the customs territory of the United States. In the interim rule, we explained that the recent downturn in the U.S. economy has negatively impacted travel volumes, and, as a result, our user fee collections, which fund these services, have diminished. Although the volume of international travel and trade has decreased, inspection and related support services continue to be provided at their existing levels, so expenses have not decreased. As a result, our user fee collections have not been sufficient to enable us to provide those services and maintain a reasonable reserve balance. We therefore found it necessary to increase our AQI user fees in order to provide adequate funds for these purposes.

The interim rule was scheduled to become effective on October 1, 2009. However, we subsequently published a document in the **Federal Register** on October 2, 2009 (74 FR 50915, Docket No. APHIS–2009–0048), in which we delayed the effective date of the user fee increases until November 1, 2009. This delay was intended to provide entities affected by the changes in AQI user fees additional time to make the necessary preparations to comply with the new fees. In conjunction with the delay, we held a public meeting on October 15, 2009, in Riverdale, MD. Transcripts of that meeting are available for viewing on the Regulations.gov Web site.[2]

APHIS will continue to accept public comments on the interim rule until November 27, 2009. In order to gather additional feedback and to address questions and concerns that stakeholders potentially affected by the AQI user fee increases may have, we plan to hold a second public meeting. The public meeting will be held on Tuesday, October 27, 2009, in the USDA Center at Riverside, 4700 River Road, Riverdale, MD. Registration will begin at 8:30 a.m. The public meeting will begin at 9 a.m. and is scheduled to end at 1 p.m. Additional information regarding the meeting may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

Security Procedures

Upon entering the building, visitors should inform security personnel that they are attending the AQI user fee public meeting. State-issued photo identification is required and all bags will be screened. Security personnel will direct visitors to the registration tables located outside of the conference center on the first floor. Registration upon arrival is required for all participants.

Done in Washington, DC, this 20th day of October 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9–25548 Filed 10–22–09; 8:45 am]

BILLING CODE 3410–34–P

[1] To view and comment upon the interim rule and its supporting documents, go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2009-0048.*

[2] See footnote 1.

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 918

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1261

RIN 2590–AA31

Federal Home Loan Bank Directors' Compensation and Expenses

AGENCY: Federal Housing Finance Agency.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement section 1202 of the Housing and Economic Recovery Act of 2008 (HERA), which amended section 7(i) of the Federal Home Loan Bank Act (Bank Act) by repealing the statutory caps on the annual compensation that can be paid to Federal Home Loan Bank (Bank) directors. The proposed rule would allow each Bank to pay its directors reasonable compensation and expenses, subject to the authority of the Director (Director) of the Federal Housing Finance Agency (FHFA) to object to, and to prohibit prospectively, compensation and/or expenses that the Director determines are not reasonable.

DATES: FHFA will accept written comments on this proposed rule on or before December 7, 2009.

ADDRESSES: You may submit your comments on the proposed rule identified by regulatory information number (RIN) 2590–AA31 by any one of the following methods:

- *U.S. Mail, United Parcel Post, Federal Express, or Other Mail Service:* The mailing address for comments is:

Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590–AA31, Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552.

- *Hand Delivered/Courier:* The hand delivery address is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590–AA31, Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington DC 20552. The package should be logged at the Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.
- *E-mail:* Comments to Alfred M. Pollard, General Counsel, may be sent by e-mail to *RegComments@fhfa.gov*. Please include ''RIN 2590–AA31'' in the subject line of the message.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by e-mail to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by the agency. Include the following information in the subject line of your submission: Federal Housing Finance Agency. Proposed Rule: Federal Home Loan Bank Directors' Compensation and Expenses, RIN 2590–AA31.

FOR FURTHER INFORMATION CONTACT: Daniel E. Coates, Associate Director, Risk Analysis and Research, (202) 408–2959, *Daniel.Coates@fhfa.gov;* Neil R. Crowley, Deputy General Counsel, (202) 343–1316, *Neil.Crowley@fhfa.gov.* The telephone number for the Telecommunications Device for the Deaf is 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Comments

FHFA invites comments on all aspects of the proposed rule and will take all comments into consideration before issuing the final rule. Copies of all comments will be posted without change, including any personal information you provide, such as your name and address, on the FHFA Internet Web site at *http://www.fhfa.gov.* In addition, copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m., at the Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. To make an appointment to inspect comments, please call the Office of General Counsel at (202) 414–3751.

II. Background

A. Establishment of FHFA

Effective July 30, 2008, Division A of HERA, Public Law 110–289, 122 Stat. 2654 (2008), titled the Federal Housing Finance Regulatory Reform Act of 2008, created FHFA as an independent agency of the Federal Government.

HERA transferred to FHFA the supervisory, mission, and oversight responsibilities over the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (the Enterprises), and the Banks (collectively, regulated entities) from the U.S. Department of Housing and Urban Development (HUD), including the Office of Federal Housing Enterprise Oversight (OFHEO), and from the Federal Housing Finance Board (FHFB). HERA abolished OFHEO and the FHFB one year after the date of its enactment.

FHFA is responsible for ensuring that the Enterprises and the Banks operate in a safe and sound manner, including their maintenance of adequate capital, internal controls, that their operations and activities foster liquid, efficient, competitive, and resilient national housing finance markets, and that they carry out their public policy missions through authorized activities. *See* § 1102 of HERA, amending section 1313 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act) (12 U.S.C. 4513). The regulated entities continue to operate under regulations promulgated by OFHEO and FHFB until such regulations are superseded by regulations promulgated by FHFA. *See id.* section 1302 and 1312 of HERA; 122 Stat. 2795, 2798.

B. Statutory and Regulatory Background

Until 1999, section 7(i) of the Bank Act authorized the Banks to pay reasonable compensation and expenses to their directors, subject to the approval of the FHFB. In 1999, Congress amended section 7(i) to impose statutory caps on the amount of annual compensation that a Bank could pay to its Chairperson, Vice Chairperson and other directors. See Public Law 106–102, 113 Stat. 1338, 1453 (November 12, 1999). As part of HERA, Congress repealed the statutory caps on director compensation, the effect of which was to reinstate the prior statutory structure, which authorized the Banks to pay reasonable compensation and expenses to their directors, subject to the approval of FHFA. *See* § 1202 of HERA, amending section 7(i) of the Bank Act at 12 U.S.C. 1427(i). HERA also enhanced the authority of the Director to oversee the compensation practices of the regulated entities more generally. *See id.* § 1202 of HERA and §§ 1113 and 1114 of HERA (the latter sections amend section 1318 of the Safety and Soundness Act, 12 U.S.C. 4518). The proposed rule would implement the provisions of section 7(i) of the Bank Act in a manner that is consistent with the other authorities that the Director has over the compensation practices of the regulated entities.

C. HERA Section 1201

Section 1201 of HERA (section 1313(f) of the Safety and Soundness Act) requires the FHFA Director to consider the differences between the Banks and the Enterprises in rulemakings that affect the Banks with respect to the Banks' cooperative ownership structure, mission of providing liquidity to members, affordable housing and community development mission, capital structure and joint and several liability. 12 U.S.C. 4513(f). In preparing this proposed rule, the Director considered these factors and determined that the rule is appropriate, particularly because the proposed amendments would implement statutory provisions of the Bank Act that apply only to the Banks. Nonetheless, FHFA requests comments about whether these factors should result in a revision of the proposed amendment as it relates to the Banks.

III. Analysis of Proposed Rule

A. Scope of the Proposed Rule

This proposed rule would relocate the FHFB regulations relating to director compensation in their entirety from part 918 of the FHFB regulations to part 1261 of the FHFA regulations. In addition, the proposed rule would amend certain provisions of those regulations to reflect the changes made by HERA. Although each of the individual amendments to the FHFB regulations may not be evident from the regulatory text of the proposed rule because the provisions are being relocated in their entirety, any material substantive revisions are discussed in this preamble.

B. Definitions—Section 1261.20

For the sake of consistency, the proposed rule would replace the earlier rule's definition of ''compensation'' with a simplified version of the definition currently proposed in FHFA's executive compensation rule, which is based on the definition of ''compensation'' in the Safety and Soundness Act. The new definition is in substance the same as the old; it would encompass any kind of payment or

other provision of value for a director's services, and would include, but not be limited to, such things as meeting fees, incentive payments, and perquisites or fringe benefits.

C. General—Section 1261.21

The proposed rule would add a new § 1261.21, which is intended to articulate the general standard under which the Banks may compensate their directors and to establish reporting requirements with respect to how Banks compensate their directors. The general standard is derived from section 7(i) of the Bank Act and closely parallels the statutory provisions, *i.e.,* it authorizes the Banks to pay reasonable compensation and expenses to their directors, but also makes clear that the director compensation practices of the Banks remain subject to FHFA oversight and possible disapproval. The new reporting requirements are intended to provide FHFA with a basis to assess the reasonableness of the compensation and expenses paid to a Bank's directors, as well as to provide FHFA with the information necessary to prepare its annual report to Congress regarding the compensation and expenses paid to Bank directors, as required by section 1202 of HERA, which amended the Bank Act at 12 U.S.C. 1427(i)(2). (*See also* section 1319B of the Safety and Soundness Act, 12 U.S.C. 4521, for the content of the Director's annual report.)

D. Directors' Compensation Policy—Section 1261.22

Section 1261.22 of the proposed rule addresses the requirement that each Bank must adopt annually a written policy relating to the compensation and expenses to be paid to its directors. This provision includes elements from § 918.2 and § 918.3 of the FHFB's regulations governing this topic, as well as new provisions relating to the HERA amendments. In addition, this section would delete the Gramm-Leach-Bliley (GLB) salary caps, as required by HERA's amendment of section 7(i) of the Bank Act, and which currently are codified at § 918.3(a).

Paragraph (a) of this section would require each Bank's board of directors annually to adopt a written policy to provide for the payment of reasonable compensation and expenses to the directors of the Bank. This provision would also state that such payments may be based on any factors that the board of directors determines to be appropriate, subject to the other requirements of the regulation. Both of those requirements exist under the FHFB regulations and are carried forward into the FHFA regulations without substantive change.

Paragraph (b) of this section would specify the minimum contents of a Bank's director compensation policy, much of which already is included in § 918.2 and § 918.3 of the FHFB regulations. Specifically, the compensation policy must: (a) Identify the activities or functions for which director attendance or participation is necessary and which may be compensated; (b) explain and justify the methodology used to determine the amount of compensation to be paid to the Bank directors; (c) include provisions requiring that compensation paid must reflect the amount of time a director has spent on official business, and that compensation be reduced, as necessary, to reflect lesser attendance at board or committee meetings.

Paragraph (c) of this section prohibits a Bank from paying compensation to a director who regularly fails to attend board or committee meetings, and prohibits the payment of fees to a director that do not reflect the director's performance of official Bank business conducted prior to the payment of such fees (*e.g.,* retainer fees). This provision largely reiterates similar prohibitions contained in § 918.3(b) of the FHFB regulations.

Paragraph (d) of this section is a new provision that requires each Bank to submit to the Director a copy of its directors' compensation policy, along with all studies or other supporting materials upon which the Bank relied in determining the level of compensation and expenses to pay its directors. The Bank must submit the information no later than 10 business days after adopting the policy, and no fewer than 30 calendar days prior to the first payment to directors being made under the policy. The Director intends to use this information in assessing the reasonableness of the compensation and expenses paid to directors each year, as well as to develop the provisions for its annual report to Congress that address the amount of compensation and expenses paid by each of the Banks to its directors.

E. Director Disapproval—Section 1261.23

Section 918.5 of the FHFB regulations deemed any payments made by the Banks in accordance with the provisions of part 918 to be approved by the FHFB for purposes of section 7(i) of the Bank Act. The proposed rule includes a new provision, § 1261.23, which addresses the Director's authority to disapprove compensation arrangements that do not conform to the reasonableness standard imposed by section 7(i) of the Bank Act. This section provides that the Director may determine that a Bank's compensation arrangements are not reasonable after reviewing the Bank's director compensation policy, the methodology employed in establishing the amount of compensation and/or expenses to be paid, or any other materials submitted by the Bank in support of its policy. In such an event, the Director may order a Bank to refrain from making any further payments based upon that compensation policy, although the proposal also provides that any such order will be applied prospectively and will not affect payments made prior to the Director's order.

F. Other Amendments—Sections 1261.24, 1261.25, 1261.26 and 1261.27

The proposed rule includes several other provisions that are carried over from the regulations of the FHFB without material substantive changes. Sections 1261.24 and 1261.27 of the proposed rule, which relate to directors' expenses and the location of board and committee meetings, respectively, are identical to the corresponding provisions within the FHFB regulations. Section 1261.25, which relates to items that must be disclosed in a Bank's annual report to its members, adds four elements to those that were required by the FHFB regulations. The additional items relate to the amount of compensation and expenses paid to each director during the year, the number of board and committee meetings held each year, and the number of board and committee meetings that each board member attended during the year.

Section 1261.26 of the proposed rule, relating to the number of in-person board meetings each Bank must hold annually, is much the same as § 918.7 of the FHFB regulations, except that the proposal does not include any references to the statutory compensation caps and introduces a new provision requiring the board of directors of each Bank to hold as many meetings as is appropriate for the board to carry out its fiduciary responsibilities to the Bank. That provision is intended to recognize that changing circumstances may require the board of directors of a Bank to meet more frequently than the minimum of six in-person meetings each year, if such additional meetings are needed to address adverse financial or supervisory issues, or for other reasons.

IV. Paperwork Reduction Act

The proposed rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

V. Regulatory Flexibility Act

The proposed rule, if adopted as a final rule, will apply only to the Banks, which do not come within the meaning of ''small entities,'' as defined in the Regulatory Flexibility Act (RFA). *See* 5 U.S.C. 601(6). Therefore, in accordance with section 605(b) of the RFA, 5 U.S.C. 605(b), the General Counsel of FHFA hereby certifies that the proposed rule, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 12 CFR Parts 918 and 1261

Banks, Banking, Community development, Conflicts of interest, Credit, Elections, Ethical conduct, Federal home loan banks, Financial disclosure, Housing, Reporting and recordkeeping requirements, Wages.

Authority and Issuance

For the reasons stated in the preamble, under the authority of 12 U.S.C. 1427, 4511, 4526, FHFA proposes to amend chapters IX and XII, of title 12 of the Code of Federal Regulations as follows:

CHAPTER IX—FEDERAL HOUSING FINANCE BOARD

PART 918—[REMOVED]

1. Remove part 918.

CHAPTER XII—FEDERAL HOUSING FINANCE AGENCY

PART 1261—FEDERAL HOME LOAN BANK DIRECTORS

2. The authority citation for part 1261 continues to read as follows:

Authority: 12 U.S.C. 1426, 1427, 1432, 4511 and 4526.

3. Add Subpart B to read as follows:

Subpart B—Federal Home Loan Bank Directors' Compensation and Expenses

Sec.
1261.20 Definitions.
1261.21 General.
1261.22 Directors' compensation policy.
1261.23 Director disapproval.
1261.24 Directors' expenses.
1261.25 Disclosure.
1261.26 Board meetings.
1261.27 Site of board of directors and committee meetings.

Subpart B—Federal Home Loan Bank Directors' Compensation and Expenses

§ 1261.20 Definitions.

As used in this subpart:

Compensation means any payment of money or the provision of any other thing of current or potential value in connection with service as a director. Compensation includes all direct and indirect payments of benefits, both cash and non-cash, granted to or for the benefit of any director.

§ 1261.21 General.

(a) *Standard.* Each Bank may pay its directors reasonable compensation for the time required of them, and their necessary expenses, in the performance of their duties, as determined by a resolution adopted by the board of directors of the Bank and subject to the provisions of this subpart.

(b) *Reporting.* No later than December 1 of each calendar year, each Bank shall report to the Director the compensation anticipated to be paid to its directors for the following calendar year. By no later than the tenth business day of each calendar year, each Bank shall report to the Director the amount of compensation and expenses paid to each director for the immediately preceding calendar year.

§ 1261.22 Directors' compensation policy.

(a) *General.* Each Bank's board of directors annually shall adopt a written compensation policy to provide for the payment of reasonable compensation and expenses to the directors for the time required of them in performing their duties as directors. Payments under the directors' compensation policy may be based on any factors that the board of directors determines reasonably to be appropriate, subject to the requirements set forth in this subpart.

(b) *Minimum contents.* The compensation policy shall address the activities or functions for which director attendance or participation is necessary and which may be compensated, and shall explain and justify the methodology used to determine the amount of compensation to be paid to the Bank directors. The compensation policy shall require that any compensation paid to a director reflect the amount of time the director has spent on official Bank business, and shall require that compensation be reduced, as necessary to reflect lesser attendance or performance at board or committee meetings during a given year.

(c) *Prohibited payments.* A Bank shall not pay a director who regularly fails to attend board or committee meetings, and shall not pay fees to a director that do not reflect the director's performance of official Bank business conducted prior to the payment of such fees.

(d) *Submission requirements.* By no later than the tenth business day after adopting its annual policy for director compensation and expenses, and at least 30 days prior to the first payment being made to its directors, each Bank shall submit to the Director a copy of the policy, along with all studies or other supporting materials upon which the board relied in determining the level of compensation and expenses to pay to its directors.

§ 1261.23 Director disapproval.

The Director may determine, based upon his or her review of a Bank's director compensation policy, methodology and/or other related materials, that the compensation and/or expenses to be paid to the directors are not reasonable. In such case, the Director may order the Bank to refrain from making any further payments under that compensation policy. Any such Director determination and order shall be applied prospectively only and shall not affect any compensation or expense payments made prior to the date of the Director's determination and order.

§ 1261.24 Directors' expenses.

Each Bank may pay its directors for such necessary and reasonable travel, subsistence and other related expenses incurred in connection with the performance of their official duties as are payable to senior officers of the Bank under the Bank's travel policy, except that directors may not be paid for gift or entertainment expenses.

§ 1261.25 Disclosure.

Each Bank shall, in its annual report:

(a) State the sum of the total compensation paid to its directors in that year;

(b) State the sum of the total expenses paid to its directors in that year;

(c) State the total compensation paid to each director in that year;

(d) State the total expenses paid to each director in that year;

(e) State the total number of board meetings and meetings of its designated committees held in that year;

(f) State the number of board and designated committee meetings that each director attended; and

(g) Summarize its policy on director compensation.

§ 1261.26 Board meetings.

The board of directors of each Bank shall hold as many meetings as

necessary and appropriate to carry out its fiduciary responsibilities with respect to the effective oversight of the management of the Bank and such other duties and obligations as may be imposed by applicable laws, provided the board of directors of a Bank shall hold a minimum of six in-person meetings in any year.

§ 1261.27 Site of board of directors and committee meetings.

Meetings of a Bank's board of directors and committees thereof usually should be held within the district served by the Bank. No meetings of a Bank's board of directors and committees thereof may be held in any location that is not within the United States, including its possessions and territories.

Dated: October 18, 2009.

Edward J. DeMarco,

Acting Director, Federal Housing Finance Agency.

[FR Doc. E9–25577 Filed 10–22–09; 8:45 am]

BILLING CODE 8070–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM417; Notice No. 25–09–12–SC]

Special Conditions: Model C–27J Airplane; Class E Cargo Compartment Lavatory

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for the Alenia Model C–27J airplane. This airplane has novel or unusual design features when compared to the state of technology described in the airworthiness standards for transport-category airplanes. These design features include a lavatory in the Class E cargo compartment. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards. We have issued additional special conditions for other novel or unusual design features of the C–27J.

DATES: We must receive your comments by November 23, 2009.

ADDRESSES: You must mail two copies of your comments to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM–113), Docket No. NM417, 1601 Lind Avenue, SW., Renton, Washington 98057–3356. You may deliver two copies to the Transport Airplane Directorate at the above address. You must mark your comments: Docket No. NM417. You can inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Tom Groves, FAA, International Branch, ANM–116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1503, facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. You can inspect the docket before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a self-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On March 27, 2006, the European Aviation Safety Agency (EASA) forwarded to the FAA an application from Alenia Aeronautica of Torino, Italy, for U.S. type certification of a twin-engine, commercial transport designated as the Model C–27J. The C–27J is a twin-turbopropeller, cargo-transport aircraft with a maximum takeoff weight of 30,500 kilograms.

Type Certification Basis

Under the provisions of Section 21.17 of Title 14 Code of Federal Regulation (14 CFR) and the bilateral agreement between the U.S. and Italy, Alenia Aeronautica must show that the C–27J meets the applicable provisions of 14 CFR part 25, as amended by Amendments 25–1 through 25–87. Alenia also elects to comply with Amendment 25–122, effective September 5, 2007, for 14 CFR 25.1317.

If the Administrator finds that existing airworthiness regulations do not adequately or appropriately address safety standards for the C–27J due to a novel or unusual design feature, we prescribe special conditions under provisions of 14 CFR 21.16.

In addition to the applicable airworthiness regulations and special conditions, the C–27J must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34 and the noise-certification requirements of 14 CFR part 36, and the FAA must issue a finding of regulatory adequacy under § 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions also apply to the other model under § 21.101.

Novel or Unusual Design Features

The C–27J incorporates a lavatory into the Class E cargo compartment, which is considered a novel or unusual design feature in a cargo compartment. In developing the airworthiness requirements for cargo compartments, the FAA did not envision that a lavatory would be installed inside a Class E cargo compartment. Lavatories, including the one proposed for the C–27J, typically contain electrical systems, which could serve as ignition sources for a fire, and an oxygen supply system, which could intensify the growth and size of a fire. Therefore, consideration must be given to a means to control the possibility of the:

• Electrical system in the lavatory initiating a fire in the cargo compartment, and

• Oxygen-supply system in the lavatory fueling a fire in the cargo compartment.

The existing airworthiness regulations do not adequately or appropriately address safety standards for these design features. These proposed special conditions for the C–27J contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Discussion

Specific regulations governing Class E cargo compartments:

(a) Section 25.855, the material-standards and design considerations for cargo-compartment interiors; the statement that each cargo compartment must meet one of the Class requirements of § 25.857; and the flight testing which must be conducted for certification.

(b) Section 25.857, the standards for the various classes of transport-category airplane-cargo compartments.

(c) Section 25.858, design and certification requirements for cargo- or baggage-compartment fire or smoke-detection systems, and a standard that fire be detected and indicated to the crew less than one minute after inception.

Specific regulations governing lavatory installations, regardless of location:

(d) Section 25.783, requirements to preclude anyone from becoming trapped inside the lavatory.

(e) Section 25.791, lavatory placarding requirements.

(f) Section 25.853, interior material-test standards, smoking-prohibition requirements, ashtray requirements, and waste-receptacle design-and-material standards.

(g) Section 25.854, lavatory smoke-detector and fire-extinguisher requirements.

In developing the airworthiness requirements for cargo compartments, the FAA did not envision that a lavatory would be installed in a Class E cargo compartment. Therefore, special conditions must be established to provide a means to control the possibility of the:

• Electrical system in the lavatory initiating a fire in the cargo compartment, and

• Oxygen-supply system in the lavatory fueling a fire in the cargo compartment.

Applicability

As discussed above, these proposed special conditions are applicable to the C–27J. Should Alenia apply at a later date for a change to the type certificate to include another model incorporating the same or similar novel or unusual design features, these proposed special conditions apply to that model as well under § 21.101.

Conclusion

This action affects only certain novel or unusual design features of the Alenia C–27J. It is not a rule of general applicability, and it affects only the applicant that applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Proposed Special Conditions

Accordingly, the Administrator of the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type-certification basis for the C–27J.

1. Control of electrical power to the lavatory located in the Class E cargo compartment:

A means must be provided to shut off electrical power to the lavatory should smoke or fire be detected anywhere in the Class E cargo compartment, including in the lavatory. Two types of shut-off systems meet this requirement:

• A manual system, with an airplane-flight-manual (AFM) procedure to instruct the flight crew on where and how to shut off the power, or

• An automatic system that shuts off power to the lavatory following a lavatory or cargo-compartment smoke-detector alarm.

2. Control of the oxygen-delivery-system flow to the lavatory and cargo compartment:

A means must be provided to shut off oxygen flow to the lavatory should smoke or fire be detected anywhere in the Class E cargo compartment, including in the lavatory. Two types of shut-off systems meet this requirement:

• A manual system, with an AFM procedure to instruct the flight crew on where and how to shut off the oxygen flow, or

• An automatic system that shuts off oxygen flow to the lavatory following a lavatory or cargo-compartment smoke-detector alarm.

Issued in Renton, Washington, on October 8, 2009.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–25495 Filed 10–22–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–0750; Airspace Docket No. 09–AEA–16]

Establishment of Class D and E Airspace and Modification of Class E Airspace; State College, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class D and E airspace and modify existing Class E airspace at State College, PA. The University Park Airport is building a new air traffic control tower and the FAA is directed by law to establish and/or modify controlled surface airspace for the support of air traffic operations. This action would enhance the safety and airspace management around University Park Airport, State College, PA.

DATES: 0901 UTC. Comments must be received on or before December 7, 2009.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey, SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2009–0750; Airspace Docket No. 09–AEA–16, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.*

You may review the public docket containing the rule, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

FOR FURTHER INFORMATION CONTACT: Melinda Giddens, Airspace Specialist, Operations Support Group, Eastern Service Center, Air Traffic Organization, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5610.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Those wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2009–0750; Airspace Docket No. 09–AEA–16.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at: *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/*. Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration (FAA), Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to establish Class D and E airspace and modify existing Class E airspace at State College, PA. Class D airspace and Class E airspace designated as an extension to a Class D surface area will be established as required by law to support the operation of the new air traffic control tower. During the airspace evaluation it was determined that the existing Class E airspace (E2), designated as a surface area for the airport, required minor modifications. This proposed rule also imparts a minor update to the geographical coordinates of the University Park Airport.

Class D airspace designations, Class E surface airspace designations (E2) and Class E airspace designations as extensions to a Class D surface area (E4) are published in Paragraphs 5000, 6002 and 6004, respectively, of FAA Order 7400.9T, signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would 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 United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This proposed 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 proposed regulation is within the scope of that authority as it proposes to establish Class D and E airspace and modify existing Class E airspace at State College, PA.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

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

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

1. The authority citation for part 71 will continue 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 71.1 of Federal Aviation Administration Order 7400.9T, Airspace Designations and Reporting Points, signed August 27, 2009, and effective September 15, 2009, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AEA PA D State College, PA [NEW]

University Park Airport, PA
(Lat. 40°50′57″ N., long. 77°50′55″ W.)

That airspace extending upward from the surface up to and including 3,500 feet MSL within a 4.5-mile radius of the University Park Airport. This Class D airspace area is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

AEA PA E2 State College, PA [AMENDED]

University Park Airport, PA
(Lat. 40°50′57″ N., long. 77°50′55″ W.)

That airspace extending from the surface within a 4.5-mile radius of the University Park Airport; and 1.1 mile either side of the 302° bearing from the airport, extending from the 4.5-mile radius to 5.9 miles northwest of the airport; and that airspace 2.5 miles either

side of the 053° bearing from the University Park Airport, extending from the 4.5-mile radius to 13.1 miles northeast of the airport. This Class E airspace area is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D Surface Area.

* * * * *

AEA PA E4 State College, PA [NEW]

University Park, PA

(Lat. 40°50′57″ N., long. 77°50′55″ W.)

That airspace extending from the surface 1.1 mile either side of the 302° bearing from the airport extending from the 4.5-mile radius to 5.9 miles northwest of the airport; and that airspace 2.5 miles either side of the 053° bearing from the University Park Airport extending from the 4.5-mile radius to 13.1 miles northeast of the airport. This Class E airspace area is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory

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Issued in College Park, Georgia, on October 15, 2009.

Michael Vermuth,

Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. E9–25519 Filed 10–22–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–0888; Airspace Docket No. 09–ASO–23]

RIN 2120–AA66

Proposed Modification of Jet Route J–20; Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Jet Route J–20 by terminating the route at the Orlando, FL, very high frequency omnidirectional range/tactical air navigation (VORTAC) facility, thereby eliminating the segment between the Orlando VORTAC and the Virginia Key, FL, very high frequency omnidirectional range/distance measuring equipment (VOR/DME) facility. This modification would eliminate a portion of J–20 that is no longer needed.

DATES: Comments must be received on or before December 7, 2009.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; telephone: (202) 366–9826. You must identify FAA Docket No. FAA–2009–0888 and Airspace Docket No. 09–ASO–23 at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace and Rules Group, Office of System Operations Airspace and AIM, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2009–0888 and Airspace Docket No. 09–ASO–23) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2009–0888 and Airspace Docket No. 09–ASO–23.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Operations Support Group, Federal Aviation Administration, Room 210, 1701 Columbia Ave., College Park, GA 30337.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to eliminate the segment of J–20 that extends between the Orlando VORTAC and the Virginia Key VOR/DME. The FAA has determined that this portion of J–20 is no longer required. Currently, J–20 parallels jet route J–53, between the Miami area and DEARY intersection (southeast of the Orlando VORTAC). At DEARY, J–20 makes a left turn to the Orlando VORTAC where it converges with J–53. This can cause a problem when aircraft are parallel on both J–20 and J–53. Jet route J–113 provides a suitable northbound replacement route for the J–20 segment. In addition, this change would provide air traffic control with more time to get climbing aircraft to their requested altitudes, thereby enhancing system efficiency.

Jet routes are published in paragraph 2004 of FAA Order 7400.9T dated August 27, 2009 and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The jet route listed in this document would be subsequently published in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (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 proposed 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 United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the 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 modifies the route structure as required to preserve the safe and efficient flow of air traffic.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9T, Airspace Designations and Reporting Points, dated August 27, 2009 and effective September 15, 2009, is amended as follows:

Paragraph 2004 Jet Routes.

* * * * *

J–20 [Modified]

From Seattle, WA, via Yakima, WA; Pendleton, OR; Donnelly, ID; Pocatello, ID; Rock Springs, WY; Falcon, CO; Hugo, CO; Lamar, CO; Liberal, KS; INT Liberal 137° and Will Rogers, OK, 284° radials; Will Rogers; Belcher, LA; Jackson, MS; Montgomery, AL; Meridian, MS; Seminole, FL; INT Seminole 129° and Orlando, FL, 306° radials; to Orlando.

* * * * *

Issued in Washington, DC, on October 15, 2009.

Edith V. Parish,

Manager, Airspace & Rules Group.

[FR Doc. E9–25490 Filed 10–22–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–0885; Airspace Docket No. 09–ASO–17]

RIN 2120–AA66

Proposed Revision of Area Navigation (RNAV) Route Q–108; Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to make a revision to the alignment of high altitude RNAV route Q–108, which currently extends between the GADAY and CLAWZ waypoints (WP) in Florida. The FAA is proposing this action to enhance the efficiency of the National Airspace System in the northern Florida area.

DATES: Comments must be received on or before December 7, 2009.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; telephone: (202) 366–9826. You must identify FAA Docket No. FAA–2009–0885 and Airspace Docket No. 09–ASO–17 at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace and Rules Group, Office of System Operations Airspace and AIM, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2009–0885 and Airspace Docket No. 09–ASO–17) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov*.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2009–0885 and Airspace Docket No. 09–ASO–17.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://*

www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Operations Support Group, Federal Aviation Administration, Room 210, 1701 Columbia Ave., College Park, GA 30337.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to revise the description of high altitude RNAV route Q–108. The route currently extends between the GADAY and CLAWZ waypoints. This action would realign the route to terminate at the HKUNA WP, instead of CLAWZ, where it would join the PIGLT TWO standard terminal arrival (STAR) serving the Orlando International Airport, FL. In addition, two new WPs, IZZEY and FRNKS, would be added to Q–108 between GADAY and HKUNA. This change would shift the alignment of Q–108 slightly to the south of its current track. This revision would enhance the efficiency of the route structure in the northern Florida area.

High altitude RNAV routes are published in paragraph 2006 of FAA Order 7400.9T dated August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The RNAV route listed in this document would be subsequently published in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (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 proposed 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 United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the 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 revises the route structure as required to preserve the safe and efficient flow of air traffic.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9T, Airspace Designations and Reporting Points, Dated August 27, 2009, and effective September 15, 2009, is amended as follows:

Paragraph 2006 United States Area Navigation Routes.

* * * * *

Q-108 GADAY to HKUNA [Revised]

GADAY
Lat. 31°02′28″ N., long. 86°08′02″ W.
IZZEY
Lat. 30°56′59″ N., long. 85°30′14″ W.
FRNKS
Lat. 30°41′58″ N., long. 83°46′33″ W.
HKUNA
Lat. 30°36′02″ N., long. 83°05′36″ W.

* * * * *

Issued in Washington, DC, on October 15, 2009.

Edith V. Parish,

Manager, Airspace & Rules Group.

[FR Doc. E9–25492 Filed 10–22–09; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 232

[Release No. 33–9074; File No. S7–23–09]

RIN 3235–AK44

Extension of Filing Accommodation for Static Pool Information in Filings With Respect to Asset-Backed Securities

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to amend Rule 312 of Regulation S–T which provides a temporary filing accommodation for filings with respect to asset-backed securities that allows static pool information required to be disclosed in a prospectus to be provided on an Internet Web site under certain conditions. Under Rule 312, such information is deemed to be included in the prospectus included in the registration statement for the asset-backed securities. Rule 312 currently applies to filings with respect to asset-backed securities filed on or before December 31, 2009. We propose to amend Rule 312 to extend its application for one year. Under the proposed extension, the rule would apply to filings with respect to asset-backed securities filed on or before December 31, 2010.

DATES: Comments should be received on or before November 23, 2009.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/proposed.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File

Number S7–23–09 on the subject line; or

• Use the Federal Rulemaking Portal (*http://www.regulations.gov*). Follow the instructions for submitting comments.

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 S7–23–09. This file number should be included on the subject line if e-mail is used. To help us 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/proposed.shtml*). Comments are also available for public 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. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: John Harrington, Attorney-Adviser, Division of Corporation Finance, at (202) 551–3430, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–3628.

SUPPLEMENTARY INFORMATION: We are proposing an amendment to Rule 312 [1] of Regulation S–T.[2]

I. Background and Discussion of the Proposed Amendment

In December, 2004, we adopted new and amended rules and forms to address the registration, disclosure and reporting requirements for asset-backed securities (''ABS'') under the Securities Act of 1933 [3] (the ''Securities Act'') and the Securities Exchange Act of 1934 [4] (the ''Exchange Act'').[5] As part of this rulemaking, we adopted Regulation AB,[6] a new principles-based set of disclosure items forming the basis for disclosure with respect to ABS in both Securities Act registration statements and Exchange Act reports. Compliance with the revised rules was phased in; full compliance with the revised rules became effective January 1, 2006. One of the significant features of Regulation AB is Item 1105, which requires, to the extent material, static pool information to be provided in the prospectus included in registration statements for ABS offerings.[7] While the disclosure required by Item 1105 depends on factors such as the type of underlying asset and materiality, the information required to be disclosed can be extensive. For example, a registrant may be required to disclose multiple performance metrics in periodic increments for prior securitized pools of the sponsor for the same asset type in the last five years.[8]

As described in the Adopting Release, in response to the Commission's proposal to require material static pool information in prospectuses for ABS offerings, many commenters representing both asset-backed issuers and investors requested flexibility in the presentation of such information. In particular, commenters noted that the required static pool information could include a significant amount of statistical information that would be difficult to file electronically on EDGAR as it existed at that time and difficult for investors to use in that format. Commenters accordingly requested the flexibility for asset-backed issuers to provide static pool information on an Internet Web site rather than as part of an EDGAR filing.[9] In response to these comments, we adopted Rule 312 of Regulation S–T, which permits, but does not require, the posting of the static pool information required by Item 1105 on an Internet Web site under the conditions set forth in the rule.[10] We recognized at the time that a Web-based approach might allow for the provision of the required information in a more efficient, dynamic and useful format than was currently feasible on the EDGAR system. At the same time, we explained that we continued to believe at some point for future transactions the information should also be submitted with the Commission in some fashion, provided investors continue to receive the information in the form they have requested. Accordingly, we adopted Rule 312 as a temporary filing accommodation applicable to filings filed on or before December 31, 2009.[11] We explained that we were directing our staff to consult with the EDGAR contractor, EDGAR filing agents, issuers, investors and other market participants to consider how static pool information could be filed with the Commission in a cost-effective manner without undue burden or expense that still allows issuers to provide the information in a desirable format. We also noted, however, that it might be necessary, among other things, to extend the accommodation.[12]

We are proposing to extend the temporary filing accommodation set forth in Rule 312 of Regulation S–T for one year so that it would apply to filings with respect to ABS filed on or before December 31, 2010. During the proposed extension, the existing requirements of Rule 312 would continue to apply. Pursuant to these requirements, the registrant must disclose its intention to provide static pool information through a Web site in the prospectus included in the registration statement at the time of effectiveness and provide the specific Internet address where the static pool information is posted in the prospectus filed pursuant to Rule 424.[13] The registrant must maintain such information on the Web site unrestricted and free of charge for a period of not less than five years, indicate the date of any updates or changes to the information, undertake to provide any person without charge, upon request, a copy of the information as of the date of the prospectus if a subsequent update or change is made to the information and retain all versions of the information provided on the Web site for a period of not less than five years in a form that permits delivery to an investor or the Commission. In addition, the registration statement for the ABS must contain an undertaking pursuant to Item 512(l) of Regulation S–K [14] that the information provided on the Web site pursuant to Rule 312 is deemed to be part of the prospectus included in the registration statement.[15]

[1] 17 CFR 232.312.

[2] 17 CFR 232.10 *et seq.*

[3] 15 U.S.C. 77a *et seq.*

[4] 15 U.S.C. 78a *et seq.*

[5] *See Asset-Backed Securities*, Release No. 33–8518 (December 22, 2004) [70 FR 1506] (adopting release related to Regulation AB and other new rules and forms related to asset-backed securities) (hereinafter, the ''Adopting Release'').

[6] 17 CFR 229.1100 *et seq.*

[7] *See* Form S–1 and Form S–3 under the Securities Act. Static pool information indicates how groups, or static pools, of assets, such as those originated at different intervals, are performing over time. By presenting comparisons between originations at similar points in the assets lives, the data allows the detection of patterns that may not be evident from overall portfolio numbers and thus may reveal a more informative picture of material elements of portfolio performance and risk.

[8] 17 CFR 229.1105.

[9] *See* Adopting Release, Section III.B.4.b.

[10] 17 CFR 232.312(a). Instead of relying on Rule 312, an issuer can include information required by Item 1105 of Regulation AB physically in the prospectus or, if permitted, through incorporation by reference from an Exchange Act report.

[11] 17 CFR 232.312(a); *see also* Adopting Release, Section III.B.4.b.

[12] Adopting Release, Section III.B.4.b.

[13] 17 CFR 230.424.

[14] 17 CFR 229.512(l).

[15] 17 CFR 232.312. As we indicated in the Adopting Release, if the conditions of Rule 312 are satisfied, then the information will be deemed to be part of the prospectus included in the registration

We believe that it is appropriate to extend the filing accommodation provided by Rule 312 before its expiration after December 31, 2009. Based on the staff's experience since Rule 312 became effective in 2006, the vast majority of residential mortgage-backed security issuers and a significant portion of ABS issuers in other asset classes have relied on the accommodation provided by the rule to disclose static pool information on an Internet Web site. Furthermore, we believe that it remains the case that it could be difficult to file the information electronically on EDGAR as it exists today and difficult for investors to use in that format.

Since the adoption of Rule 312 in December, 2004, technological advances and expanded use of the Internet have enabled the Commission to adopt additional rules incorporating electronic communications. The Commission continues to recognize that, in certain circumstances and under certain conditions, the Internet can present a reliable and cost-effective alternative or supplement to traditional disclosure methods.[16] On the other hand, we are mindful of the benefit of having information filed on the EDGAR system.

The staff of the Division of Corporation Finance is currently engaged in a broad review of the Commission's regulation of ABS including disclosure, offering process, and reporting of asset-backed issuers. Along with this review, the staff of the Division of Corporation Finance is continuing to explore whether a filing mechanism for static pool information that fulfills the objectives identified above is feasible. As the staff considers this issue further, we believe it is appropriate to extend the temporary filing accommodation for one year. We believe a proposal for a long-term solution for providing static pool disclosure would be better considered together with other possible proposals to revise the regulations governing the offer and sale of ABS. The proposed one-year extension of Rule 312 is intended to provide time to enable us to proceed in this manner.

We are soliciting comments in this release about current practice and potential alternatives for providing static pool disclosure and will consider the responses we receive in determining whether to extend Rule 312 or to address the issue more broadly as part of a package of ABS proposals.

Request for Comment

We request and encourage any interested person to submit comments regarding the proposed amendment described above. In particular, we solicit comment on the following questions:

- Is an extension of the filing accommodation appropriate? What would be the consequences if the accommodation lapsed on December 31, 2009 and static pool information was required in an EDGAR filing beginning January 1, 2010?
- How could static pool information be filed with the Commission in a cost-effective manner that continues to allow the information to be provided in a format that promotes utility and functionality? Are there alternative filing mechanisms that could replace or supplement Rule 312?
- Have investors or other market participants had any difficulties with locating, accessing, viewing or analyzing static pool information posted on an Internet Web site pursuant to the filing accommodation provided by Rule 312 of Regulation S–T? Has the information remained on the Web site for the required duration and have updates and changes been appropriately reflected?
- Have issuers found that the Internet Web site posting accommodation provided by Rule 312 has enabled them to provide the required static pool information in a cost-effective, efficient and useful manner? Have issuers encountered any issues or problems with Internet Web site posting pursuant to Rule 312? How should we address those issues or problems?
- Would the proposed one-year extension present particular problems for investors? Would a shorter or more narrowly tailored extension ameliorate those concerns?
- Should the filing accommodation be extended for longer than one year, for example, two, three or five years, or made permanent? If so, are there any revisions to the rule that should be made?
- Are there any other changes we should consider making to Rule 312 of Regulation S–T?

Paperwork Reduction Act

Rule 312 of Regulation S–T was adopted along with other new and amended rules and forms to address the registration, disclosure and reporting requirements for ABS under the Securities Act and the Exchange Act. In connection with this prior rulemaking, we submitted a request for approval of the ''collection of information'' requirements contained in the amendments and rules to the Office of Management and Budget (''OMB'') in accordance with the Paperwork Reduction Act of 1995 (''PRA'').[17] OMB approved these requirements.[18]

Item 1105 of Regulation AB [19] requires certain static pool information, to the extent material, to be provided in prospectuses included in registration statements for ABS offerings.[20] Rule 312 is a temporary filing accommodation that permits the posting of the static pool information required by Item 1105 on an Internet Web site under the conditions set forth in the rule.[21] The proposed amendment to Rule 312 extends the existing temporary filing accommodation provided by the rule for one additional year. As is the case today, issuers may choose whether or not to take advantage of the accommodation. The conditions of Rule 312 remain otherwise unchanged. The disclosure requirements themselves, which are contained in Forms S–1 and S–3 under the Securities Act and require the provision of the information set forth in Item 1105 of Regulation AB, also remain unchanged. Therefore, the proposed amendment, if adopted, will not result in an increase or decrease in the costs and burdens imposed by the ''collection of information'' requirements previously approved by the OMB.

III. Cost-Benefit Analysis

In this section, we examine the benefits and costs of our proposed amendment. We request that commenters provide views and supporting information as to the benefits and costs associated with the

statement and thus subject to all liability provisions applicable to prospectuses and registration statements, including Section 11 of the Securities Act [15 U.S.C. 77k]. Adopting Release, Section III.B.4.b.

[16] *See, e.g., Internet Availability of Proxy Materials*, Release No. 34–55146 (Jan. 22, 2007) [72 FR 4148] (adopting release for voluntary E-Proxy rules) and *Internet Availability of Proxy Materials*, Release No. 34–52926 (December 8, 2005) [70 FR 74598] (proposing release for voluntary E-Proxy rules). *See also Enhanced Disclosure and New Prospectus Delivery Option for Registered Open-End Management Investment Companies*, Release No. 33–8998, Section III.A.4.c (Jan. 13, 2009) [74 FR 4546] (adopting Item 11(g)(2) of Form N–1A under the Investment Company Act of 1940 [15 U.S.C. 80a–1 *et seq.*] which allows exchange-traded funds to provide premium/discount information on a Web site rather than in a prospectus or annual report) and *Securities Offering Reform*, Release No. 33–8591, Section VI.B.1 (July 19, 2005) [70 FR 44722] (adopting ''access equals delivery'' model for final prospectus delivery).

[17] 44 U.S.C. 3501 *et seq.*

[18] The collections of information to which Rule 312 of Regulation S–T relates from ''Form S–1'' (OMB Control No. 3235–0065) and ''Form S–3'' (OMB Control No. 3235–0073).

[19] 17 CFR 229.1105.

[20] *See* Form S–1 and Form S–3 under the Securities Act.

[21] 17 CFR 232.312(a).

proposal. We seek estimates of these costs and benefits, as well as any costs and benefits not already identified.

A. Benefits

We adopted the filing accommodation provided by Rule 312 of Regulation S–T because commenters requested flexibility in the presentation of required static pool information. Given the large amount of statistical information involved, commenters argued for a Web-based approach that would allow issuers to present the information in an efficient manner and with greater functionality and utility than might be available if an EDGAR filing was required. We believe this greater functionality and utility has enhanced an investor's ability to access and analyze the static pool information and also removed the burden on issuers of duplicating the information in each prospectus as well as easing the burdens of updating such information.[22] As we discussed in the Adopting Release, since the information is deemed to be part of the prospectus included in the registration statement, the rule is designed to give investors access to accurate and reliable information.

By extending the accommodation provided by Rule 312, these benefits to both issuers and investors would continue to apply. As discussed above, many ABS issuers rely on Rule 312 to provide static pool information on an Internet Web site rather than in an EDGAR filing.[23] We do not believe we can implement an alternative filing mechanism by the end of 2009 that would meet the objectives of both issuers and investors to present static pool information in an efficient, cost-effective form that would provide investors utility and functionality in terms of accessing and analyzing that information. Therefore, if we do not amend Rule 312 to extend its application, static pool information would be required in EDGAR filings beginning on January 1, 2010. We believe this would result in costs for issuers as they attempt to adjust their procedures in a short period of time in order to present the information in a format acceptable to the EDGAR system and could result in costs to investors if the information filed on EDGAR was presented in a less useful format.

By extending Rule 312, we seek to avoid these potentially negative effects for issuers and investors as we continue to explore the best format in which to require the filing of static pool information. As indicated above, the staff of the Division of Corporation Finance is considering this issue along with other proposals addressing the disclosure, offering process and reporting of asset-backed issuers.

B. Costs

We do not believe a one-year extension of the Rule 312 accommodation would impose any new or increased costs on issuers. In the Cost-Benefit Analysis section of the Adopting Release, we noted that asset-backed issuers electing the Web-based accommodation provided by Rule 312 would incur costs related to the maintenance and retention of static pool information posted on a Web site and might also incur start-up costs.[24] While it is likely that certain of those costs would continue to impact asset-backed issuers that elect the Web-based approach during the extension period, we do not believe our proposed amendment would impose any new or increased costs for asset-backed issuers because it does not change any other conditions to the accommodation or the underlying filing and disclosure obligations. As a result of the proposed extension of the accommodation, asset-backed issuers would be able to continue their current practices for an additional year.

For investors, there may be costs associated with the static pool information not being electronically filed with the Commission. For example, when information is electronically filed with the Commission, investors and staff can access the information from a single, centralized location, the EDGAR Web site. We think these costs are mitigated by the fact that ABS issuers relying on the Rule 312 accommodation must ensure that the prospectus for the offering contains the Internet Web site address where the static pool information is posted, the Web site must be unrestricted and free of charge, such information must remain on the Internet Web site for five years with any changes clearly indicated and the issuer must undertake to provide the information to any person free of charge, upon request, if a subsequent update or change is made. Furthermore, because the information is deemed included in the prospectus under Rule 312, it is subject to all liability provisions applicable to prospectuses and registration statements.

Investors and issuers may have incurred costs to adjust their processes in anticipation of the lapse of the Rule 312 accommodation and potential reversion to a requirement to file static pool information on EDGAR. In this case, benefits to investors or issuers of not having to change their procedures regarding static pool reporting in a short time frame would be diminished by any costs already incurred in anticipation of the change. We believe such anticipatory action and any associated costs are minimal.

We request comment on the amount of any additional costs issuers or investors may incur as a result of the proposed amendment.

IV. Small Business Regulatory Enforcement Fairness Act

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, or ''SBREFA,''[25] we solicit data to determine whether the proposal constitutes a major rule. Under SBREFA, a rule is considered ''major'' where, if adopted, it results or is likely to result in:

- An annual effect on the economy of $100 million or more (either in the form of an increase or a decrease);
- A major increase in costs or prices for consumers or individual industries; or
- Significant adverse effects on competition, investment or innovation.

We request comment on the potential impact of the proposed amendment on the U.S. economy on an annual basis, any potential increase in costs or prices for consumers or individual industries, and any potential effect on competition, investment or innovation. Commenters are requested to provide empirical data and other factual support for their views if possible.

V. Consideration of Impact on the Economy, Burden on Competition and Promotion of Efficiency, Competition and Capital Formation

Section 2(b) of the Securities Act requires us, when engaging in rulemaking where we are required to consider or determine whether an action is necessary or appropriate in the public interest, to also consider whether the action will promote efficiency, competition, and capital formation.

As discussed in greater detail above, Rule 312 of Regulation S–T was adopted as a temporary filing accommodation so that issuers of ABS could present static pool information on an Internet Web site. The proposed amendment to Rule 312 of Regulation S–T extends its application for one year. We are not proposing changes to the conditions of Rule 312 or to the disclosure obligations

[22] *See* Section I above and Adopting Release, Section V.D.

[23] *See* Section I above.

[24] *See* Adopting Release, Section V.D.

[25] 5 U.S.C. 603.

to which it applies. We do not believe that a one-year extension would impose a burden on competition. We also believe the extension of the filing accommodation would continue to promote efficiency and capital formation by permitting ABS issuers to disclose static pool information in a format that is more useful to investors and cost-effective and not unduly burdensome for asset-backed issuers.

We request comment on whether the proposed amendment, if adopted, would promote efficiency, competition, and capital formation. Commenters are requested to provide empirical data and other factual support for their view to the extent possible.

VI. Regulatory Flexibility Analysis Certification

The Commission hereby certifies pursuant to 5 U.S.C. 605(b) that the proposed amendment contained in this release, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposal relates to the disclosure requirements for ABS in Securities Act registration statements. Securities Act Rule 157 [26] defines an issuer, other than an investment company, to be a ''small business'' or ''small organization'' if it had total assets of $5 million or less on the last day of its most recent fiscal year. In 2004, when we proposed the new and amended rules and forms to address the registration, disclosure and reporting requirements for ABS, we certified that the proposals would not have a significant economic impact on a substantial number of small entities. As the depositor and issuing entity are most often limited purpose entities in an ABS transaction, we focused on the sponsor in analyzing the potential impact of the proposals under the Regulatory Flexibility Act. The staff analyzed sponsors that conducted registered public offerings of ABS during 2003. No sponsor had total assets of $5 million or less.[27] Based on staff experience, we continue to believe that few, if any, sponsors are small entities. In addition, even if some sponsors are small entities, the proposed amendment to Rule 312 would not have a significant economic impact on any such entities because it only extends a temporary filing accommodation that is currently in effect. As discussed above in Section III, we do not believe the proposed extension would impose any new or increased costs on ABS issuers. Accordingly, we do not believe that the extension, if adopted, would have a significant economic impact on a substantial number of small entities.

We solicit written comments regarding this certification. We request comment on whether the proposals could have an effect that we have not considered. We request that commenters describe the nature of any impact on small entities and provide empirical data to support the extent of the impact.

VII. Statutory Authority and Text of the Proposed Amendment

The amendment described is being proposed under the authority set forth in Sections 6, 7, 10, 19 and 28 of the Securities Act of 1933 (15 U.S.C. 77f, 77g, 77j, 77s and 77z–3).

List of Subjects in 17 CFR Part 232

Reporting and recordkeeping requirements, Securities.

Text of the Proposed Amendment

For the reasons set out in the preamble, the Commission proposes to amend title 17, chapter II, of the Code of Federal Regulations as follows:

PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

1. The authority citation for part 232 continues to read, in part, as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77z–3, 77sss(a), 78c(b), 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*, 80a–6(c), 80a–8, 80a–29, 80a–30, 80a–37, and 7201 *et seq.*; and 18 U.S.C. 1350.

* * * * *

§ 232.312 [Amended]

2. Amend § 232.312 by removing ''December 31, 2009'' and in its place adding ''December 31, 2010'' in the first sentence of paragraph (a).

* * * * *

Dated: October 19, 2009.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–25496 Filed 10–22–09; 8:45 am]

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[26] 17 CFR 230.157.

[27] *Asset-Backed Securities,* Release No. 33–8419 (May 3, 2004) [69 FR 26650] (proposing release related to Regulation AB and other new rules and forms related to asset-backed securities).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 514

[Docket No. FDA–2009–N–0436]

New Animal Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the regulations regarding new animal drug applications (NADAs). Specifically, this proposed rule is being issued to provide that NADAs shall be submitted in the form and containing the information described, as appropriate for the particular submission. Currently, the regulation requires that all NADAs contain the same informational sections and does not explicitly provide the appropriate flexibility needed to address the development of all types of new animal drug products. This amendment will allow the agency to appropriately review safety and effectiveness data submitted to support the approval of new animal drug products. This proposed rule is a companion document to the direct final rule published elsewhere in this issue of the **Federal Register**.

DATES: Submit written comments on or before January 6, 2010. If FDA receives any significant adverse comments, the agency will publish a document withdrawing the direct final rule within 30 days after the comment period ends. FDA will then proceed to respond to comments under this proposed rule using the usual notice and comment procedures.

ADDRESSES: You may submit comments, identified by Docket No. FDA–2009–N–0436 by any of the following methods:

Electronic Submissions:

Submit electronic comments in the following way:

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

Written Submissions:

Submit written submissions in the following ways:

- FAX: 301–827–6870.
- Mail/Hand delivery/Courier [For paper, disk, or CD–ROM submissions]: Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

To ensure more timely processing of comments, FDA is no longer accepting

comments submitted to the agency by e-mail. FDA encourages you to continue to submit electronic comments by using the Federal eRulemaking Portal, as described previously, in the **ADDRESSES** portion of this document under *Electronic Submissions*.

Instructions: All submissions received must include the agency name and Docket No. for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov*, including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Urvi Desai, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8297, e-mail: *urvi.desai@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

This proposed rule is being issued to amend § 514.1 (21 CFR 514.1) so as to provide that NADAs shall contain the information described in the section, as appropriate for the particular submission. Currently, the regulation requires that all NADAs contain the same informational sections and does not explicitly provide the appropriate flexibility needed to address the development of all types of new animal drug products. This amendment will allow the agency to appropriately review safety and effectiveness data submitted to support the approval of new animal drug products. In addition, the proposed amendment is similar to the current provisions of the human new drug application regulations at 21 CFR 314.50 and thus will make the new human and new animal drug regulations more consistent.

II. Companion Document to Direct Final Rulemaking

This proposed rule is a companion to the direct final rule published in the final rules section of this issue of the **Federal Register**. The direct final rule and this companion proposed rule are substantively identical. This companion proposed rule provides the procedural framework to finalize the rule in the event that a significant adverse comment is received in response to the direct final rule and it is withdrawn. FDA is publishing the direct final rule because we believe the rule is non-controversial, and we do not anticipate receiving any significant adverse comments. If no significant adverse comment is received in response to the direct final rule, no further action will be taken related to this proposed rule. Instead we will publish a document confirming the effective date within 30 days after the comment period ends, confirming when the direct final rule will go into effect.

If we receive any significant adverse comment regarding the direct final rule, we will withdraw the direct final rule within 30 days after the comment period ends and proceed to respond to all of the comments under this companion proposed rule using usual notice-and-comment rulemaking procedures under the Administrative Procedures Act (APA) (5 U.S.C. 552a *et seq*.). The comment period for this companion proposed rule runs concurrently with the comment period for the direct final rule. Any comments received under this companion proposed rule will also be considered as comments regarding the direct final rule, and vice versa. We will not provide additional opportunity for comment.

A significant adverse comment is defined as a comment that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. In determining whether an adverse comment is significant and warrants withdrawing a direct final rule, we will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process in accordance with section 553 of the APA (5 U.S.C. 553). Comments that are frivolous, insubstantial, or outside the scope of the rule will not be considered adverse under this procedure. For example, a comment recommending an additional change to the rule will not be considered a significant comment unless the comment states why the rule would be ineffective without the additional change. In addition, if a significant adverse comment applies to part of a rule and that part can be severed from the remainder of the rule, we may adopt as final those parts of the rule that are not the subject of a significant adverse comment.

In the **Federal Register** of November 21, 1997 (62 FR 62466), you can find additional information about FDA's direct final rulemaking procedures in the guidance document entitled ''Guidance for FDA and Industry: Direct Final Rule Procedures.'' This guidance document may be accessed at *http://www.fda.gov/RegulatoryInformation/Guidances/ucm125166.htm*.

III. Legal Authority

FDA's authority to issue this proposed rule is provided by section 512(b)(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(b)(1)). This section states that any person may file with the Secretary of Health and Human Services an application with respect to any intended use or uses of a new animal drug and sets forth the specific information that must be included in such an application. In addition, section 701(a) of the act (21 U.S.C. 371(a)) gives FDA general rulemaking authority to issue regulations for the efficient enforcement of the act. FDA is issuing this proposed rule under these authorities.

IV. Environmental Impact

FDA has carefully considered the potential environmental impacts of this rule and determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is not a significant regulatory action under the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the proposed rule would not impose any direct or indirect costs on industry or government through the amendment, but rather

would only clarify that sponsors must include in their applications the information described in § 514.1 that is appropriate for their particular submission, the agency proposes to certify that the rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $133 million, using the most current (2008) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this proposed rule to result in any 1-year expenditure that would meet or exceed this amount.

VI. Federalism

FDA has analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the agency has concluded that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

VII. Paperwork Reduction Act of 1995

This proposed rule refers to previously approved collections of information found in FDA regulations. The proposed rule would amend these previously approved collections of information by clarifying that NADAs must contain the information appropriate for the particular submission. Further, this amendment is based upon the Center for Veterinary Medicine's previous experience with these submissions. Thus, § 514.1, as amended, does not constitute a new or additional paperwork burden requiring Office of Management and Budget (OMB) approval.

Collections of information are subject to review by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in § 514.1 have been approved under OMB Control No. 0910–0032.

VIII. Request for 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.

List of Subjects in 21 CFR Part 514

Administrative practice and procedure, Animal drugs, Confidential business information, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 514 be amended as follows:

PART 514—NEW ANIMAL DRUG APPLICATIONS

1. The authority citation for 21 CFR part 514 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 356a, 360b, 371, 379e, 381.

2. In § 514.1, revise the first sentence of paragraph (a) and the introductory text of paragraph (b) to read as follows:

§ 514.1 Applications.

(a) Applications to be filed under section 512(b) of the act shall be submitted in the form and contain the information described in paragraph (b) of this section, as appropriate to support the particular submission. * * *

(b) Applications for new animal drugs shall be submitted in triplicate and assembled in the manner prescribed by paragraph (b)(15) of this section, and shall include the following information, as appropriate to support the particular submission: * * *

* * * * *

Dated: October 19, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–25518 Filed 10–22–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

RIN 0648–AW72

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery; Amendment 16

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

ACTION: Notice of availability of a fishery management plan amendment; request for comments.

SUMMARY: NMFS announces that the New England Fishery Management Council (Council) has submitted Amdnement 16 to the NE Multispecies Fishery Management Plan (FMP) and its associated draft Final Environmental Impact Statement (FEIS) for Secretarial review and is requesting comments from the public. Amendment 16 was developed by the Council as part of the biennial adjustment process in the FMP to update status determination criteria for all regulated NE multispecies or ocean pout stocks; to adopt rebuilding programs for NE multispecies stocks newly classified as being overfished and subject to overfishing; and to revise management measures, including significant revisions to the Sector management and allocation measures, necessary to end overfishing, rebuild overfished regulated NE multispecies or ocean pout stocks, and mitigate the adverse economic impacts of increased effort controls. Amendment 16 would also implement new requirements for establishing allowable biological catch (ABC), annual catch limits (ACLs), and accountability measures (AMs) for each stock managed by the FMP, pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Finally, this action would add Atlantic wolffish to the list of species managed by the FMP. This action is necessary to address the results of the most recent stock assessment, which indicate that several additional NE multispecies regulated species are overfished and subject to overfishing and that some stocks currently classified as overfished require additional reductions in fishing mortality to rebuild by the end of their rebuilding periods.

DATES: Comments must be received on or before December 22, 2009.

ADDRESSES: You may submit comments, identified by 0648–AW72, by any of the following methods:

- Email: *MultsA16FEIS@noaa.gov*. Include in the subject line RIN or text that identifies the subject **Federal Register** document open for comment.
- Federal eRulemaking Portal: *http://www.regulations.gov*.
- Fax: (978) 281–9135, Attn: Douglas Christel.
- Mail or hand-delivery: Paper, disk, or CD-ROM comments should be sent to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on the NE Multispecies Amendment 16 FEIS.''

Instructions: All comments received are part of the public record and will generally be posted to *http://regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (either N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of Amendment 16, its Regulatory Impact Review (RIR), and the draft of the FEIS are available from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. Copies of the Initial Regulatory Flexibility Analysis (IRFA) are available from the Regional Administrator at the address above. The EIS/RIR/IRFA is also accessible via the Internet at *http://www.nefmc.org/nemulti/index.html*.

FOR FURTHER INFORMATION CONTACT: Douglas Christel, Fishery Policy Analyst, phone: 978–281–9141, fax: 978–281–9135.

SUPPLEMENTARY INFORMATION: Amendment 13 to the FMP, which became effective May 1, 2004 (April 27, 2004; 69 FR 22906), established two different strategies for rebuilding (an adaptive strategy and a phased rebuilding strategy), and a rebuilding plan for each overfished stock was developed in accordance with one of the two strategies. Under the ''adaptive'' rebuilding strategy, the fishing mortality rate (F) is held at a level that would produce maximum sustainable yield (F_{MSY}) from 2004 through 2008, and then is subsequently reduced to the level required to rebuild by the selected end-date of the rebuilding period. In contrast, under the ''phased'' rebuilding strategy, F was allowed to remain above F_{MSY} at the start of the rebuilding period in 2004, and then was reduced sequentially in 2006 and 2009. Eight stocks (Gulf of Maine (GOM) cod, Georges Bank (GB) haddock, GOM haddock, Southern New England (SNE)/Mid-Atlantic (MA) winter flounder, GB yellowtail flounder, redfish, windowpane flounder (southern stock), and ocean pout) are managed under the adaptive rebuilding strategy, while five stocks (GB cod, Cape Cod (CC)/GOM yellowtail flounder, SNE/MA yellowtail flounder, American plaice, and white hake) are managed under the phased rebuilding strategy.

Amendment 13 also established a biennial adjustment process whereby the Council reviews the FMP and makes any changes to management measures necessary to achieve the goals and objectives of the FMP. This adjustment process provides an update of the scientific information regarding the status of the stocks and an evaluation of the effectiveness of the regulations. The biennial review scheduled to occur in 2008, with necessary changes to the FMP implemented in 2009, included a peer-reviewed benchmark assessment and a review of the biological reference points (stock status determination criteria) for each stock. This planned assessment of the biological reference points (Groundfish Assessment Review Meeting, (GARM III)) was also part of the adaptive rebuilding strategy described above, which sought to evaluate the more fundamental scientific information mid-way through the rebuilding period for most stocks. GARM III, completed in August 2008, included a series of meetings over the course of one year. GARM III evaluated the underlying data and models utilized for assessment of the groundfish stocks, evaluated the biological reference points, established new reference points, assessed the biomass and fishing mortality status of the groundfish stocks in 2007, and provided examples of the Fs that would be expected to rebuild overfished stocks.

GARM III concluded that 11 stocks were still subject to overfishing (i.e., fishing above the F_{MSY}) and that 12 stocks were overfished (i.e., biomass levels were less than one half of the biomass at $_{MSY}$ (B_{MSY})), with 10 stocks classified as both overfished and subject to overfishing. A final determination on the status of pollock could not be made until the fall 2008 survey data made available, as the status of this species is based on the 3-year centered average of the fall biomass indices. Such data became available in January 2009, and indicated that pollock is overfished.

The Council began development of Amendment 16 in 2006, with the intent of implementing any necessary revisions to management measures by the start of fishing year (FY) 2009 on May 1, 2009. On November 6, 2006, a notice of intent to prepare a supplemental EIS and hold scoping meetings designed to solicit public input on any revisions to management measures necessary to continue rebuilding overfished groundfish stocks was published in the **Federal Register** (71 FR 64941). The Council continued to develop Amendment 16 for implementation in FY 2009 until a presentation by the Northeast Fisheries Science Center NMFS (NEFSC) regarding preliminary estimates of 2006 stock size and F at the June 2008 Council meeting indicated that draft effort control measures under development for Amendment 16 were not targeting the correct stocks. Based on this information, the Council decided to wait until the receipt of the final GARM III assessment results in September 2008 to continue the development of appropriate management measures under Amendment 16. The Council subsequently developed a revised schedule of development for Amendment 16, which postponed implementation of Amendment 16 until the start of FY 2010 on May 1, 2010. In addition, the Council voted on September 4, 2008, to request that NMFS implement an interim action for the duration of FY 2009 (May 1, 2009–April 30, 2010), and recommended a specific suite of management measures for the interim action. A proposed rule to implement interim management measures published on January 16, 2009 (74 FR 2959), with final interim measures published on April 13, 2009 (74 FR 17030) and effective on May 1, 2009.

Based upon the final results of GARM III, the Council adopted draft management measures and an associated draft EIS (DEIS) at its February 2009 meeting. A notice of availability for the DEIS, which analyzed the impacts of all of the measures under consideration in Amendment 16, was published on April 24, 2009 (74 FR 18705), with public comments accepted through June 8, 2009. Final measures under Amendment 16 were adopted by the

Council at its June 2009 meeting. In addition to the implementing management measures to reduce F for overfished stocks, Amendment 16 contains changes to status determination criteria and other aspects of the management program, such as an ABC control rule and potential sector contributions, that are not reflected in regulations. The proposed measures include: Revisions to biological reference points for most stocks; incorporation of Atlantic wolffish into the list of NE multispecies managed by the FMP; new reporting measures to increase timeliness and accuracy of catch data; changes in the allocation of days-at-sea (DAS) between Category A DAS and Category B DAS; changes to the way NE multispecies DAS are allocated and counted; gear restricted areas; modifications to the DAS Leasing and Transfer Programs; changes in minimum fish size for two stocks; revisions to special access programs (SAPs); modifications to existing trip limits, including increased trip limits for some stocks and landings prohibitions for other stocks; changes to Sector allocation procedures; modifications to Sector eligibility requirements; revisions to Sector operation plan requirements, including new and revised monitoring and reporting requirements and allowable exemptions; approval of 17 new Sectors; revisions to recreational gear, seasonal, and possession restrictions; establishment of a process to set and distribute ABCs and ACLs for all managed stocks among fishery subcomponents; and AMs for both commercial and recreational fisheries.

A proposed rule that would implement Amendment 16, if approved, will be published in the **Federal Register** for public comment, following NMFS's evaluation of the proposed rule under the procedures of the Magnuson-Stevens Act. Public comments on the proposed rule must be received by the end of the comment period on Amendment 16 to be considered in the approval/disapproval decision on the amendment. All comments received by December 22, 2009, whether specifically directed to Amendment 16 or the proposed rule, will be considered in the approval/disapproval decision on the amendment. Any comments on the proposed rule received after that date will not be considered in the decision to approve or disapprove Amendment 16. To be considered, comments must be received by the close of business on the last day of the comment period; that does not mean postmarked or otherwise transmitted by that date.

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

Dated: October 19, 2009.

Emily H. Menashes,

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

[FR Doc. E9–25546 Filed 10–22–09; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 74, No. 204

Friday, October 23, 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

Submission for OMB Review; Comment Request

October 20, 2009.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (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 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 should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Agricultural Research Service

Title: ARS Animal Health National Program Assessment Survey Form.

OMB Control Number: 0518–0042.

Summary of Collection: The Agricultural Research Service (ARS) is charged with extending the Nation's scientific knowledge with research projects in agriculture, human nutrition, food safety, natural resources, the environment, and other topics affecting the Nation. ARS conducts national program assessments every five years. The cycle ensures that ARS research meets OMB's Research and Development Investment Criteria and other external requirements. The ARS Animal Health National Program has concluded its five-year cycle and now will conduct a national program assessment to gather customer, stakeholder, and partner input to the next program cycle.

Need and Use of the Information: The purpose of the survey/questionnaire is to assess the impact of the research program in the 2005–2009 national program cycle and ensure relevance for the cycle beginning in 2010. Failure to collect input from our customers on the performance and impact of our research program would significantly inhibit the relevance and credibility of the research conducted at ARS.

Description of Respondents: Individuals or households.

Number of Respondents: 400.

Frequency of Responses: Reporting: Other (1 time survey).

Total Burden Hours: 100.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E9–25553 Filed 10–22–09; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

October 20, 2009.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (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 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 should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Specimen Submission.

OMB Control Number: 0579–0090.

Summary of Collection: The Animal Health Protection Act of 2002 (AHPA) is the primary Federal law governing the protection of animal health. The law gives the Secretary of Agriculture broad authority to detect, control, or eradicate pests or diseases of livestock or poultry. Disease prevention is the most effective method for maintaining a healthy animal population and for enhancing the United States' ability to globally compete in the trade of animals and animal products. VS Forms 10–4 and 10–4A, Specimen Submission are critical components of APHIS' disease

surveillance mission. They are used routinely when specimens (such as blood, milk, tissue, or urine) from any animal (including cattle, swine, sheep, goats, horses, and poultry) are submitted to APHIS' National Veterinary Services Laboratories (NVSL) for disease testing. VS Form 5–38, Parasite Submission form, is completed by State veterinarians or other State representatives, accredited veterinarians, private laboratories, research institutions, and individuals/households.

Need and Use of the Information: Using APHIS form VS 10–4, State or Federal veterinarians, accredited veterinarians, or other State and Federal representatives will document the collection and submission of specimens for laboratory analysis. The form identifies the individual animal from which the specimen is taken as well as the animal's herd or flock; the type of specimen submitted, and the purpose of submitting the specimen. The National Tick Surveillance Program is based on the information submitted on VS Form 5–38, in addition to critical surveillance information needed for the Cattle Fever Tick Eradication Program. This information identifies the individual submitting the tick samples. Without the information contained on these forms, personnel at the National Veterinary Services Laboratories would have no way of identifying or processing the specimens/species being sent to them for analysis.

Description of Respondents: State, Local or Tribal Government; Individuals or households; Business or other for-profit.

Number of Respondents: 3,208.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 9,266.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E9–25554 Filed 10–22–09; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2009–0030]

Codex Alimentarius Commission: Meeting of the Codex Committee on Food Hygiene

AGENCY: Office of the Acting Under Secretary for Food Safety, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of the Acting Under Secretary for Food Safety, U.S. Department of Agriculture (USDA), and the Food and Drug Administration (FDA), of the U.S. Department of Health and Human Services, are sponsoring a public meeting on October 28, 2009. The objective of the public meeting is to provide information and receive public comments on agenda items and draft U.S. positions that will be discussed at the 41st Session of the Codex Committee on Food Hygiene (CCFH) of the Codex Alimentarius Commission (Codex), which will be held in San Diego, California, from November 16 through November 20, 2009. The Acting Under Secretary for Food Safety and FDA recognize the importance of providing interested parties the opportunity to obtain background information on the 41st session of the CCFH and to address items on the agenda.

DATES: The public meeting is scheduled for Wednesday, October 28, 2009, from 1 p.m. to 4 p.m.

ADDRESSES: The public meeting will be held at FDA, Harvey Wiley Federal Building, 5100 Paint Branch Parkway, Room 1A–003 (Auditorium), College Park, MD 20740. Documents related to the 41st Session of the CCFH will be accessible via the World Wide Web at the following address: *http://www.codexalimentarius.net/current.asp*.

The U.S. Delegate to the 41st Session of the CCFH invites interested U.S. parties to submit their comments electronically to the following e-mail address *Donald.Zink@fda.hhs.gov*.

Registration: All visitors must pass through security screening in the front lobby of the building and will be directed to the auditorium. Visitors who wish to come to the building via automobile may park in the FDA parking lot next to the building. Those parking in the FDA lot will need to pass through the guard station at the River Road entrance. To expedite entry to the parking lot, it is recommended that visitors who drive to the meeting contact Jasmine Matthews in the U.S. Codex Office and provide their name, vehicle make, model, color, and license plate number, by close of business on October 23, 2009.

FOR FURTHER INFORMATION ABOUT THE 41ST SESSION OF THE CCFH CONTACT: Barbara McNiff, 1400 Independence Avenue, SW., Room 4870, Washington, DC 20250, (202) 690–4719, *Barbara.McNiff@fsis.usda.gov*.

FOR FURTHER INFORMATION ABOUT THE PUBLIC MEETING CONTACT: Jasmine Matthews, Program Analyst, U.S. Codex Office, 1400 Independence Avenue, Room 4861, Washington, DC 20250, (202) 690–1124, *Jasmine.Matthews@fsis.usda.gov*.

SUPPLEMENTARY INFORMATION:

Background

The Codex was established in 1963 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to protect the health of consumers and ensure that fair practices are used in trade.

The CCFH was established to draft basic provisions on food hygiene applicable to all food; to consider, amend if necessary, and endorse provisions on hygiene prepared by Codex commodity committees and contained in Codex codes of practice unless, in specific cases, the Codex has decided otherwise; to draft provisions on hygiene applicable to specific food items or food groups, whether coming within the terms of reference of a Codex commodity committee or not; to consider specific hygiene problems assigned to it by the Codex; to suggest and prioritize areas where there is a need for microbiological risk assessment at the international level; to develop questions to be addressed by the risk assessors; and to consider microbiological risk management matters in relation to food hygiene, including food irradiation, and in relation to the risk assessment of FAO and WHO.

The CCFH is hosted by the United States of America.

Issues to be Discussed at the Public Meeting

The following items on the agenda for the 41st Session of the CCFH will be discussed during the public meeting:

- Matters Referred by the Codex and Other Codex Committees to the CCFH;
- Matters Arising from the Work of FAO, WHO, and Other International Intergovernmental Organizations:

(a) Progress Report on the Joint FAO and WHO Expert Meetings on Microbiological Risk Assessment and Related Matters

(b) Information from the World Organization for Animal Health

- Proposed Draft Guidelines for the Control of *Campylobacter* and *Salmonella spp.* in Chicken Products at Step 4;

- Proposed Draft Annex on Leafy Green Vegetables, Including Leafy Herbs, to the Code of Hygienic Practice for Fresh Fruits and Vegetables at Step 4;
- Proposed Draft Code of Hygienic Practice for *Vibrio spp.* in Seafood at Step 4;
- Proposed Draft Annex on Control Measures for *Vibrio parahaemolyticus* and *Vibrio vulnificus* in Molluscan Shellfish;
- Proposed Draft Code of Hygienic Practice for Control of Viruses in Food at Step 4;
- Inconsistencies Arising in Documents Elaborated by the CCFH and Adopted by the Codex;
- Discussion of the Report of the *Ad Hoc* Working Group for Establishment of CCFH Work Priorities.

Each issue listed will be fully described in documents distributed, or to be distributed, by the Secretariat prior to the meeting. Members of the public may access copies of these documents (see **ADDRESSES**).

Public Meeting

At the October 28, 2009, public meeting, draft U.S. positions on the agenda items will be described and discussed, and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to the U.S. Delegate for the 41st Session of the CCFH, Donald Zink (see **ADDRESSES**). Written comments should state that they relate to activities of the 41st Session of the CCFH.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it online through the FSIS Web page located at *http://www.fsis.usda.gov/regulations/2009_Notices_Index/*. FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The FSIS Constituent Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The FSIS Constituent Update is also available on the FSIS Web page. Through the Listserv and Web page, FSIS is able to provide information to a much broader and more diverse audience. In addition, FSIS offers an electronic mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/news_and_events/email_subscription/*. Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

Done at Washington, DC, on October 20, 2009.

Karen Stuck,

U.S. Manager for Codex Alimentarius.

[FR Doc. E9–25527 Filed 10–22–09; 8:45 am]

BILLING CODE 3410–DM–P

APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMMISSION

Annual Meeting

Time and Date: 10 a.m.–12:30 p.m. November 6, 2009.

Place: Harrisburg Hilton and Towers, One North Second Street, Harrisburg, PA 17101.

Status: The meeting will be open to the public.

Matters to be Considered:

Portions Open to the Public: The primary purpose of this meeting is to (1) review the independent auditors' report of Commission's financial statements for fiscal year 2008–2009; (2) Review the Low-Level Radioactive Waste (LLRW) Disposal and Storage information for 2008; (3) Consider a proposed budget for fiscal year 2010–2011; (4) Review regional and national issues regarding LLRW storage, management and disposal; and (5) Elect the Commission's Officers.

Portions Closed to the Public: Executive Session, if deemed necessary, will be announced at the meeting.

Contact Person for More Information: Rich Janati, Administrator of the Commission, at 717–787–2163.

Rich Janati,

Administrator, Appalachian Compact Commission.

[FR Doc. E9–25502 Filed 10–22–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–963]

Certain Sodium and Potassium Phosphate Salts From the People's Republic of China: Initiation of Countervailing Duty Investigation

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

DATES: *Effective Date:* October 23, 2009.

FOR FURTHER INFORMATION CONTACT: Yasmin Nair or Joseph Shuler, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3813 and (202) 482–1293, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On September 24, 2009, the Department of Commerce (''Department'') received a petition filed in proper form by ICL Performance Products LP and Prayon, Inc. (collectively, ''Petitioners''), domestic producers of certain sodium and potassium phosphate salts.[1] In response to the Department's requests, Petitioners provided timely information supplementing the Petition on October 1, 2009.

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (''the Act''), Petitioners allege that manufacturers, producers, or exporters of sodium and potassium phosphate salts in the People's Republic of China (''PRC'') receive countervailable subsidies within the meaning of section 701 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that Petitioners filed the Petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) and (D) of the Act, and Petitioners have demonstrated sufficient industry support with respect to the countervailing duty (''CVD'') investigation (*see* ''Determination of Industry Support for the Petition'' section below).

[1] *See* Petition for the Imposition of Antidumping and Countervailing Duties Pursuant to Sections 701 and 731 of the Tariff Act of 1930, as Amended: Certain Sodium and Potassium Phosphate Salts from the People's Republic of China, dated September 24, 2009 (''Petition'').

Period of Investigation

The period of investigation is January 1, 2008, through December 31, 2008.

Scope of Investigation

The phosphate salts covered by this investigation include Sodium Tripolyphosphate (''STPP''), whether anhydrous or in solution, anhydrous Monopotassium Phosphate (''MKP''), anhydrous Dipotassium Phosphate (''DKP'') and Tetrapotassium Pyrophosphate (''TKPP''), whether anhydrous or in solution (collectively ''phosphate salts'').

STPP, also known as Sodium triphosphate, Tripoly or Pentasodium triposphate, is a sodium polyphosphate with the formula $Na_5O_{10}P_3$. The American Chemical Society, Chemical Abstract Service (''CAS'') registry number for STPP is 7758–29–4. STPP is typically 25% phosphorus, 31% sodium and and 57% diphosphorus pentoxide (P_2O_5). STPP is classified under heading 2835.31.0000, HTSUS.

TKPP, also known as normal potassium pyrophosphate, Diphosphoric acid or Tetrapotassium salt, is a potassium salt with the formula $K_4P_2O_7$. The CAS registry number for TKPP is 7320–34–5. TKPP is typically 18.7% phosphorus and 47.3% potassium. It is generally greater than or equal to 43.0% P_2O_5 content. TKPP is classified under heading 2835.39.1000, HTSUS.

MKP, also known as Potassium dihydrogen phosphate, KDP, or Monobasic potassium phosphate, is a potassium salt with the formula KH_2PO_4. The CAS registry number for MKP is 7778–77–0. MKP is typically 22.7% phosphorus, 28.7% potassium and 52% P_2O_5. MKP is classified under heading 2835.24.0000, HTSUS.

DKP, also known as Dipotassium salt, Dipotassium hydrogen orthophosphate or Potassium phosphate, dibasic, has a chemical formula of K_2HPO_4. The CAS registry number for DKP is 7758–11–4. DKP is typically 17.8% phosphorus, 44.8% potassium and 40% P_2O_5 content. DKP is classified under heading 2835.24.0000, HTSUS.

The products covered by this investigation include the foregoing phosphate salts in all grades, whether food grade or technical grade. The product covered by this investigation includes anhydrous MKP and DKP without regard to the physical form, whether crushed, granule, powder or fines. Also covered are all forms of STPP and TKPP, whether crushed, granule, powder, fines or solution.

For purposes of the investigation, the narrative description is dispositive, not the tariff heading, American Chemical Society, CAS registry number or CAS name, or the specific percentage chemical composition identified above.

Comments on Scope of Investigation

During our review of the Petition, we discussed the scope with Petitioners to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations (*Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments by November 3, 2009, twenty calendar days from the signature date of this notice. Comments should be addressed to Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations.

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, on September 25, 2009, the Department invited representatives of the Government of the PRC for consultations with respect to the CVD petition. The Government of the PRC did not request such consultations. On October 13, 2009, the GOC requested that the Department extend the deadline for consultations. The Department responded that it could not extend this deadline for pre-initiation consultations, but would consult with the GOC in the course of this proceeding if initiated, as required by Article 13.2 of the Subsidies and Countervailing Measures Agreement.

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the Petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the Petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the Petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method.

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (''ITC''), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001), *citing Algoma Steel Corp. Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.'' Although the reference point from which the domestic like product analysis begins is usually ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petition), Petitioners submit that there is one class or kind of merchandise, but four domestic like products.

The four like products, when considered together, correspond to the product scope description. Based on our analysis of the information submitted on the record, we have determined that STPP, MKP, DKP, and TKPP constitute four domestic like products and we have analyzed industry support in terms

of those domestic like products. For a discussion of the domestic like product analysis in this case, *see* ''Countervailing Duty Investigation Initiation Checklist: Certain Sodium and Potassium Phosphate Salts from the People's Republic of China (''Initiation Checklist''), at Attachment II, Analysis of Industry Support for the Petitions Covering Certain Sodium and Potassium Phosphate Salts from the People's Republic of China, on file in the Central Records Unit (''CRU''), Room 1117 of the main Department of Commerce building.

With regard to section 702(c)(4)(A) of the Act, in determining whether Petitioners have standing (*i.e.,* the domestic workers and producers supporting the Petition account for (1) at least 25 percent of the total production of the domestic like product and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition), we considered the industry support data contained in the Petition with reference to the domestic like products. To establish industry support, Petitioners provided their own production volume of the domestic like products for calendar year 2008, and compared that to total production volume of the domestic like products for the industry. We have relied upon data Petitioners provided for purposes of measuring industry support. For further discussion, *see* Initiation Checklist at Attachment II.

The Department's review of the data provided in the Petition, supplemental submissions, and other information readily available to the Department indicates that Petitioners have established industry support for each of the four like products. First, the Petition establishes support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like products and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.,* polling). *See* section 702(c)(4)(D) of the Act and Initiation Checklist at Attachment II. Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the relevant domestic like product. *See* Initiation Checklist at Attachment II. Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the relevant domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition. Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act. *See* Initiation Checklist at Attachment II.

The Department finds that Petitioners filed the Petition on behalf of the domestic industry because they are interested parties as defined in sections 771(9)(C) of the Act and have demonstrated sufficient industry support with respect to the countervailing duty investigation that they are requesting the Department initiate. *See* Initiation Checklist at Attachment II.

Injury Test

Because the PRC is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

Petitioners allege that imports of certain sodium and potassium phosphate salts from the PRC are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the domestic industry producing certain sodium and potassium phosphate salts. In addition, Petitioners allege that subsidized imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

Petitioners contend that the industries' injured condition is illustrated by reduced market share, underselling and price depressing and suppressing effects, lost sales and revenue, reduced production, reduced capacity and capacity utilization, reduced shipments, reduced employment, and an overall decline in financial performance. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See* Initiation Checklist at Attachment III (Analysis of Injury Allegations and Evidence of Material Injury and Causation).

Initiation of Countervailing Duty Investigation

Section 702(b) of the Act requires the Department to initiate a CVD proceeding whenever an interested party files a petition on behalf of an industry that: (1) Alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to the Petitioner(s) supporting the allegations.

The Department has examined the CVD petition on sodium and potassium phosphate salts from the PRC and finds that it complies with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating a CVD investigation to determine whether manufacturers, producers, or exporters of sodium and potassium phosphate salts in the PRC receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, *see* Initiation Checklist.

We are including in our investigation the following programs alleged in the Petition to have provided countervailable subsidies to producers and exporters of the subject merchandise in the PRC:

A. Income Tax Programs

1. ''Two Free, Three Half'' Tax Exemption for Foreign Invested Enterprises (''FIEs'').
2. Income Tax Subsidies for FIEs Based on Geographic Location.
3. Income Tax Exemption Programs For Export-Oriented FIEs.
4. Local Income Tax Exemption or Reduction Program for ''Productive'' FIEs.
5. Preferential Tax Subsidies for Research and Development by FIEs.
6. Reduced Income Tax Rate for High- and New-Technology Enterprises.
7. Income Tax Credit on Purchases of Domestically Produced Equipment.
8. Reduction in or Exemption from the Fixed Assets Investment Orientation Regulatory Tax.

B. Grant Programs

1. Subsidies to Loss-Making State-Owned Enterprises (''SOEs'') by the Government of China (''GOC'') at the National Level.
2. Subsidies to Loss-Making SOEs by the GOC at the Provincial Level.
3. Grants Pursuant to the State Key Technology Renovation Project Fund.
4. Grants Pursuant to the ''Famous Brands'' Program.

C. Tariff and Indirect Tax Exemption Programs

1. Value Added Tax (''VAT'') Refunds for FIEs Purchasing Domestically Produced Equipment.

D. VAT and Tariff Exemptions on Imported Equipment

E. Preferential Lending Policies

1. Discounted Loans for Export Oriented Industries (''Honorable Enterprises'').

F. Government Restraints on Exports of Yellow Phosphorus

For further information explaining why the Department is investigating these programs, *see* Initiation Checklist.

We are not including in our investigation the following program alleged to benefit producers and exporters of the subject merchandise in the PRC:

Provision of Electricity for Less Than Adequate Remuneration

Petitioners allege that the GOC, through the National Development and Reform Commission, regulates the power rates for certain industries, including the yellow phosphorus industry and that differential rates are provided to the yellow phosphorus industry. Petitioners have not provided information that supports the allegation that differential pricing of electricity is provided to producers of the subject merchandise. Consequently, we do not plan on investigating this program.

Respondent Selection

For this investigation, the Department expects to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports during the period of investigation. We intend to release the CBP data under the Administrative Protective Order (''APO'') to all parties with access to information protected by APO within five days of the announcement of the initiation of this investigation. Interested parties may submit comments regarding the CBP data and respondent selection within seven calendar days of publication of this notice. We intend to make our decision regarding respondent selection within 20 days of publication of this **Federal Register** notice.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Department's Web site at *http://ia.ita.doc.gov/apo*.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act, a copy of the public version of the Petition has been provided to the Government of the PRC. As soon as and to the extent practicable, we will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, consistent with section 351.203(c)(2) of the Department's regulations.

ITC Notification

We have notified the ITC of our initiation, as required by section 702(d) of the Act and 19 CFR 351.203(c)(1).

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 25 days after the date on which it receives notice of the initiation, whether there is a reasonable indication that imports of subsidized sodium and potassium phosphate salts from the PRC are causing material injury, or threatening to cause material injury, to a U.S. industry. *See* section 703(a)(2) of the Act. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act and 19 CFR 351.203(c)(1).

Dated: October 14, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

Attachment I

Scope of the Investigation

The phosphate salts covered by this investigation include Sodium Tripolyphosphate (STPP), whether anhydrous or in solution, anhydrous Monopotassium Phosphate (MKP), anhydrous Dipotassium Phosphate (DKP) and Tetrapotassium Pyrophosphate (TKPP), whether anhydrous or in solution (collectively ''phosphate salts'').

STPP, also known as Sodium triphosphate, Tripoly or Pentasodium triposphate, is a sodium polyphosphate with the formula $Na_5O_{10}P_3$. The American Chemical Society, Chemical Abstract Service (''CAS'') registry number for STPP is 7758–29–4. STPP is typically 25% phosphorus, 31% sodium and and 57% diphosphorus pentoxide (P_2O_5). STPP is classified under heading 2835.31.0000, HTSUS.

TKPP, also known as normal potassium pyrophosphate, Diphosphoric acid or Tetrapotassium salt, is a potassium salt with the formula $K_4P_2O_7$. The CAS registry number for TKPP is 7320–34–5. TKPP is typically 18.7% phosphorus and 47.3% potassium. It is generally greater than or equal to 43.0% P_2O_5 content. TKPP is classified under heading 2835.39.1000, HTSUS.

MKP, also known as Potassium dihydrogen phosphate, KDP, or Monobasic potassium phosphate, is a potassium salt with the formula KH_2PO_4. The CAS registry number for MKP is 7778–77–0. MKP is typically 22.7% phosphorus, 28.7% potassium and 52% P_2O_5. MKP is classified under heading 2835.24.0000, HTSUS.

DKP, also known as Dipotassium salt, Dipotassium hydrogen orthophosphate or Potassium phosphate, dibasic, has a chemical formula of K_2HPO_4. The CAS registry number for DKP is 7758–11–4. DKP is typically 17.8% phosphorus, 44.8% potassium and 40% P_2O_5 content. DKP is classified under heading 2835.24.0000, HTSUS.

The products covered by this investigation include the foregoing phosphate salts in all grades, whether food grade or technical grade. The product covered by this investigation includes anhydrous MKP and DKP without regard to the physical form, whether crushed, granule, powder or fines. Also covered are all forms of STPP and TKPP, whether crushed, granule, powder, fines or solution.

For purposes of the investigation, the narrative description is dispositive, not the tariff heading, American Chemical Society, CAS registry number or CAS name, or the specific percentage chemical composition identified above.

[FR Doc. E9–25571 Filed 10–22–09; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket Number: 0910051336–91337–01]

Draft Report on the Collapse of the Dallas Cowboys Indoor Practice Facility, May 2, 2009; Request for Comments

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice; request for comments.

SUMMARY: The National Institute of Standards and Technology (NIST) seeks comments on the draft report of its study of the Dallas Cowboys Indoor Practice Facility Collapse, May 2, 2009.

DATES: Comments must be received on or before 12 noon Eastern Time, November 6, 2009.

ADDRESSES: Comments may be submitted to NIST by e-mail at *structuralsafety@nist.gov,* by fax to 301–869–6275; or by regular mail to the attention of Stephen Cauffman, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8611, Gaithersburg, MD 20899–8611.

The draft report is available at: *http://www.bfrl.nist.gov/investigations/investigations.htm.*

FOR FURTHER INFORMATION CONTACT: Requests for further information may be addressed to: Stephen Cauffman, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8611, Gaithersburg, MD 20899–8611; tel: (301) 975–6051; e-mail: *structuralsafety@nist.gov.*

SUPPLEMENTARY INFORMATION: The report summarizes the NIST study of the collapse of the Dallas Cowboys indoor practice facility that occurred on the afternoon of May 2, 2009, during a severe thunderstorm. The principal findings of this study are summarized in this report and include the definition of the wind environment that affected the practice facility on May 2, 2009, possible factors contributing to the collapse of the facility, and the likely collapse sequence. The report concludes with a recommendation for action for improving the safety of fabric-covered frame structures and ensuring the adequate performance of such structures under design wind loads.

Request for Comments: NIST seeks comments on the draft report of its study of the Dallas Cowboys Indoor Practice Facility Collapse, May 2, 2009. NIST will review comments received, make appropriate revisions, and publish the report in a final form following the public comment period.

Dated: October 16, 2009.

Patrick Gallagher,

Deputy Director, NIST.

[FR Doc. E9–25557 Filed 10–22–09; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XR60

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permit (EFP)

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

ACTION: Notification of a proposal for an EFP to conduct experimental fishing; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that the subject EFP application submitted by Wallace and Associates contains all the required information and warrants further consideration. The proposed EFP would extend the previously authorized EFP for an additional year, to continue testing the safety and efficacy of harvesting surfclams and ocean quahogs from the Atlantic surfclam and ocean quahog Georges Bank (GB) Closure Area using a harvesting protocol developed by state and Federal regulatory agencies and endorsed by the U.S. Food and Drug Administration (FDA). The Assistant Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Atlantic Surfclam and Ocean Quahog regulations and Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to issue the EFP. Therefore, NMFS announces that the Assistant Regional Administrator proposes to recommend that an EFP be issued that would allow one commercial fishing vessel to conduct fishing operations that are otherwise restricted by the regulations governing the fisheries of the Northeastern United States. The EFP would allow for an exemption from the Atlantic surfclam and ocean quahog GB Closure Area. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments must be received on or before November 9, 2009.

ADDRESSES: Comments on this notice may be submitted by e-mail. The mailbox address for providing e-mail comments is *NERO.EFP@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: ''Comments on GB PSP Closed Area Exemption.'' Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on GB PSP Closed Area Exemption.'' Comments may also be sent via facsimile (fax) to (978) 281–9135.

Copies of supporting documents referenced in this notice are available from Anna Macan, Fishery Management Specialist, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930, and are available via the Internet at *http://www.nero.noaa.gov/sfd/clams.*

FOR FURTHER INFORMATION CONTACT: Anna Macan, Fishery Management Specialist, phone 978–281–9165.

SUPPLEMENTARY INFORMATION: Truex Enterprises of New Bedford, MA, first submitted an application for an EFP on March 30, 2006, and public comment was solicited via the **Federal Register** on June 19, 2006 (71 FR 35254). On October 2, 2006, the applicant submitted additional information seeking to add states where the product harvested under the EFP could be landed. Due to changes in the EFP Proposal, the notice and comment period was re-initiated and published in the **Federal Register** on November 14, 2006 (71 FR 66311). At that time, due to lack of concurrence on the Protocol for Onboard Screening and Dockside Testing for Paralytic Shellfish Poisoning (PSP) Toxins in Molluscan Shellfish (Protocol) from the state of landing, the EFP was not issued. The applicant subsequently received concurrence from the state of landing and the state where the product is to be processed for the Protocol and EFP, and an EFP was authorized through the end of calendar year 2008. The EFP was subsequently renewed for 1 year, and is due to expire on December 31, 2009.

The current applicant, Wallace & Associates, of Cambridge, MD, requests an extension of the previously authorized EFP to allow the catch and retention for sale of Atlantic surfclams and ocean quahogs from within the Atlantic surfclam and ocean quahog GB Closure Area. This area, located east of 69°00′ W. long. and south of 42°20′ N. lat., has been closed since May 25, 1990. This closure was implemented based on advice from the U.S. Food and Drug Administration (FDA) after samples of surfclams from the area tested positive for the toxins (saxotoxins) that cause PSP. These toxins are produced by the alga Alexandrium fundyense, which can form blooms commonly referred to as red tides. Red tide blooms, also known as harmful algal blooms (HABs), can produce toxins that accumulate in filter-feeding shellfish. Shellfish contaminated with the saxotoxin, if eaten in large enough quantity, can cause illness or death from PSP. Due, in part, to the inability to test and monitor

this area for the presence of PSP, this closure was made permanent through Amendment 12 to the FMP in 1999.

The primary goal of the proposed study is to test the efficacy of the Protocol that was developed by state and Federal regulatory agencies to test for presence of saxotoxins in shellfish, and thus has been in a trial period through previous EFPs since 2006. This protocol would facilitate the harvest of shellfish from waters susceptible to HABs, which produce the saxotoxins, but that are not currently under rigorous water quality monitoring programs by either state or Federal management agencies. The Protocol details procedures and reporting for harvesting, testing, and landing of shellfish harvested from areas that are susceptible to HABs prior to the shellfish from entering commerce. A copy of the Protocol is available from the NMFS Northeast Region website: *http://www.nero.noaa.gov/sfd/clams*.

The proposed project would conduct a trial for the sampling protocol in an exemption zone within the larger 1990 GB Closure Area with the F/V Sea Watcher I (Federal permit #410565, O.N. 1160720). The exemption zone would not include any Northeast multispecies or essential fish habitat year-round closure areas. This proposed exempted fishing activity would occur during the 2010 calendar year, using surfclam and ocean quahog quota allocated to Truex Enterprises under the Federal individual transferable quota (ITQ) program. The applicant has estimated a harvest of 176,000 bushels (9,370,240 L) of surfclams and 80,000 bushels (4,259,200 L) of ocean quahogs from the exemption area. The exemption area has been tested in cooperation with the FDA from 2006 to the present. No samples collected during that time were below acceptable levels for saxotoxins (80?g toxin/100g of shellfish).

The applicant has obtained endorsements for the EFP and the Protocol from the States of New Jersey and Delaware, the states in which it intends to land and process the product harvested under the EFP, respectively. Each state is responsible for regulating the molluscan shellfish industry within its jurisdiction and ensuring the safety of shellfish harvested within or entering its borders. The Protocol and the pilot project that would be authorized by this EFP have also since been endorsed by the executive board of the Interstate Shellfish Sanitation Conference.

The applicants may request minor modifications and extensions to the EFP throughout the course of research. EFP modifications and extensions may be granted without further public notice if they are deemed essential to facilitate completion of the proposed research and result in only a minimal change in the scope or impacts of the initially approved EFP request.

In accordance with NOAA Administrative Order (NAO) 216–6, a Categorical Exclusion or other appropriate National Environmental Policy Act document would be completed prior to the issuance of the EFP.

Further review and consultation may be necessary before a final determination is made to issue the EFP. After publication of this document in the **Federal Register**, the EFP, if approved, may become effective following the public comment period.

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

Dated: October 20, 2009.

Emily H. Menashes,

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

[FR Doc. E9–25551 Filed 10–22–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No. PTO–T–2009–0045]

Trademark Manual of Examining Procedure, Sixth Edition

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (''USPTO'') issued the sixth edition of the *Trademark Manual of Examining Procedure* (''TMEP'') on October 12, 2009.

ADDRESSES: The USPTO prefers that any suggestions for improving the form and content of the TMEP be submitted via electronic mail message to *tmtmep@uspto.gov*. Written comments may also be submitted by mail addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313–1451, marked to the attention of Editor, *Trademark Manual of Examining Procedure* or by hand delivery to the Trademark Assistance Center, Concourse Level, James Madison Building-East Wing, 600 Dulany Street, Alexandria, Virginia, marked to the attention of Editor, *Trademark Manual of Examining Procedure.*

FOR FURTHER INFORMATION CONTACT: Mary E. Hannon, Office of the Deputy Commissioner for Trademark Examination Policy, by electronic mail at: *mary.hannon@uspto.gov*; or by mail addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313–1451, marked to the attention of Mary E. Hannon.

SUPPLEMENTARY INFORMATION: On October 12, 2009, the USPTO issued the sixth edition of the TMEP, which provides USPTO trademark examining attorneys, trademark applicants, and attorneys and representatives for trademark applicants with a reference on the practices and procedures for prosecution of applications to register marks in the USPTO. The TMEP contains guidelines for examining attorneys and materials in the nature of information and interpretation, and outlines the procedures which examining attorneys are required or authorized to follow in the examination of trademark applications.

The sixth edition incorporates USPTO trademark practice and relevant case law reported prior to September 1, 2009. The policies stated in this revision supersede any previous policies stated in prior editions, examination guides, or any other statement of USPTO policy, to the extent that there is any conflict.

The TMEP may be viewed or downloaded free of charge from the USPTO Web site at: *http://tess2.uspto.gov/tmdb/tmep/*.

Dated: October 19, 2009.

David J. Kappos,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. E9–25581 Filed 10–22–09; 8:45 am]

BILLING CODE 3510–16–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete products previously furnished by such agencies.

Comments Must be Received on or Before: 11/23/2009.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Patricia Briscoe, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following services are proposed for addition to the Procurement List for production by the nonprofit agency listed:

Services

Service Type/Locations: Mail Services, 11370 W Theodore Trecker Way, West Allis, WI. 2762 Rand Road, Indianapolis, IN.
NPA: Anthony Wayne Rehabilitation Ctr for Handicapped and Blind, Inc., Fort Wayne, IN.
Contracting Activity: Defense Finance And Accounting Service (DFAS), CONTRACT Services Directorate, Columbus, OH.

Deletions

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. If approved, the action may result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products proposed for deletion from the Procurement List.

End of Certification

The following products are proposed for deletion from the Procurement List:

Products

Business Cards

NSN: P.S. NIB 49
NSN: P.S. NIB 50
NSN: P.S. NIB 51
NPA: The Lighthouse for the Blind, Inc. (Seattle Lighthouse), Seattle, WA.
Contracting Activity: U.S. Postal Service, Washington, DC.
NSN: 7045–01–483–7450—Disk File 40, 3½″ Disks
NSN: 7045–01–483–7841—Visionguard Anti-Glare Screen
NSN: 7045–01–483–7842—MixMedia Tower
NSN: 7045–01–483–9271—CD Jewel Case, Gold Tray, Five Pack
NSN: 7045–01–483–9272—CD Jewel Case, Gold Tray, Ten Pack
NSN: 7045–01–483–9273—CD Radial Cleaner
NSN: 7045–01–483–9274—CD–ROM Drive Clean
NSN: 7045–01–483–9275—CD Fast Wipes 20
NSN: 7045–01–483–9276—CD–ROM Drive Clean
NSN: 7045–01–483–9277—CD Scratch Repair System
NSN: 7045–01–483–9407—CD Jewel Case, Standard, Three Pack
NPA: Wiscraft Inc.—Wisconsin Enterprises for the Blind, Milwaukee, WI.
Contracting Activity: GSA/FSS OFC SUP CTR—Paper Products, New York, NY.
NSN: 7510–00–455–7339—Fastener, Paper
NPA: Delaware County Chapter, NYSARC, Inc., Walton, NY.
Contracting Activity: GSA/FSS OFC SUP CTR—Paper Products, New York, NY.
NSN: 7510–00–455–7339—Fastener, Paper.
NPA: Delaware County Chapter, NYSARC, Inc., Walton, NY.
Contracting Activity: GSA/FSS OFC SUP CTR—Paper Products, New York, NY.

Patricia Briscoe,

Deputy Director, Business Operations, Pricing and Information Management.

[FR Doc. E9–25481 Filed 10–22–09; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from Procurement List.

SUMMARY: This action adds to the Procurement List a product and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List products and services previously furnished by such agencies.

DATES: *Effective Date:* 11/23/2009.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Louis Bartalot, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION:

Additions

On 7/17/2009 (74 FR 34726–34727) and 8/21/2009 (74 FR 42234–42235), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the product and services and impact of the additions on the current or most recent contractors, the Committee has determined that the product and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the product and services to the Government.

2. The action will result in authorizing small entities to furnish the product and services to the Government.

3. There are no known regulatory alternatives which would accomplish

the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the product and services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following product and services are added to the Procurement List:

Product

NSN: 6660–00–920–3722—Rain Gauge, 4″.
NPA: Productive Alternatives, Inc., Fergus Falls, MN.
Contracting Activity: Dept of Commerce, Office of the Secretary/NOAA, KANSAS, MO.
Coverage: C-List for the requirements of the Department of Commerce, National Oceanic and Atmospheric Administration, Central Administrative Support Center, Kansas City, MO.

Services

Service Type/Location: Base Supply Center, USDA, Headquarters, 1400 Independence Ave., SW., Washington, DC.
NPA: Winston-Salem Industries for the Blind, Winston-Salem, NC.
Contracting Activity: Department of Agriculture—USDA, Office of Operations, Washington, DC.

Service Type/Location: Janitorial and Grounds Maintenance Service, USDA–ARS, 2000 E. Allen Rd., Tucson, AZ.
NPA: Beacon Group SW, Inc., Tucson, AZ.
Contracting Activity: Department of Agriculture—USDA, Agricultural Research Service, PWA Area Procurement Office, Albany, CA.

Service Type/Location: Custodial Services, Bradford Facility, 5000 Bradford Drive, Huntsville, AL; Huntsville Warehouse, 151 Electronics Blvd., Huntsville, AL; Wynn Facility, 106 Wynn Drive, Huntsville, AL; Huntsville Warehouse, 351 Electronics Blvd., Huntsville, AL; Cheverly Warehouse, 6340 Columbia Park Road, Cheverly, MD; Suffolk Facility, 5611 Columbia Pike, Alexandria, VA; Dahlgren Facilities, 17211 Avenue D, Dahlgren, VA.
NPA: Huntsville Rehabilitation Foundation, Huntsville, AL.
Contracting Activity: Dept of Defense, Missile Defense Agency (MDA), Redstone Arsenal, AL.

Service Type/Location: Receptionist and Security Services, Lyng Service Center, USDA NRCS California State Office, 430 G. Street, #4164, Davis, CA.
NPA: Pacific Coast Community Services, Richmond, CA.
Contracting Activity: Dept. of Agriculture, Natural Resources Conservation Service, Soil Conservation Service, Davis, CA.

Service Type/Location: Food Service Attendants, CMSGT Emerson E. Williams Dining Facility, 417 Polifka Drive, Shaw AFB, SC.
NPA: Goodwill Industries of Lower South Carolina, Inc., North Charleston, SC.
Contracting Activity: Dept. of The Air Force, FA4803 20 Cons Cos, Shaw AFB, SC.

Deletions

On 7/10/2009 (74 FR 33211–33212); 7/17/2009 (74 FR 34726–34727), 8/7/2009 (74 FR 39641) and 8/21/2009 (74 FR 42234–42235), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products and services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services deleted from the Procurement List.

End of Certification

Accordingly, the following products and services are deleted from the Procurement List:

Products

Paper, Tabulating Machine:
NSN: 7530–00–NIB–0320
NSN: 7530–00–NIB–0342
NSN: 7530–00–NIB–0343
NPAs: Arizona Industries for the Blind, Phoenix, AZ.
Association for Vision Rehabilitation and Employment, Inc., Binghamton, NY.
Tarrant County Association for the Blind, Fort Worth, TX.
Contracting Activity: GSA/FSS OFC SUP CTR—Paper Products, New York, NY.

Paper, Tabulating Machine:
NSN: 7530–00–731–5363
NPA: Tarrant County Association for the Blind, Fort Worth, TX.
Contracting Activity: GSA/FSS OFC SUP CTR—Paper Products, New York, NY.

Easel, Wallboard, Cork:
NSN: 7195–01–484–0009
Easel, Wallboard, Fabric:
NSN: 7195–01–484–0008
NSN: 7195–01–484–0018
NPA: The Lighthouse for the Blind, Inc. (Seattle Lighthouse), Seattle, WA.
Contracting Activity: GSA/FSS OFC SUP CTR—Paper Products, New York, NY.

Illuminator/Corrector Stx and Refills

NSN: 7520–01–386–2407
NSN: 7510–01–390–0709
NSN: 7520–01–386–2441
NPA: San Antonio Lighthouse for the Blind, San Antonio, TX.
Contracting Activity: GSA/FSS OFC SUP CTR—Paper Products, New York, NY.

Services

Service Type/Location: Janitorial/Custodial, U.S. Army Reserve Center, 355 Anderson Highway, Clemson, SC.
NPA: Pickens County Board of Disabilities and Special Needs, Easley, SC.
Contracting Activity: Dept. of the Army, XR W40M Natl Region Contract OFC, Washington, DC.

Service Type/Location: Parking Facility Attendant, VA Medical Center, 2215 Fuller Road, Ann Arbor, MI.
NPA: Washtenaw County Community Support and Treatment Services, Ann Arbor, MI.
Contracting Activity: Veterans Affairs, Department of NAC, Hines, IL.

Service Type/Location: Janitorial/Custodial, OSHA Training Center, 1555 Times Drive, Des Plaines, IL.
NPA: Lester and Rosalie Anixter Center, Chicago, IL.
Contracting Activity: Department of Labor, Washington, DC.

Louis Bartalot,

Director, Compliance and Review.

[FR Doc. E9–25515 Filed 10–22–09; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 09–34]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, DoD.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 09–34 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: October 19, 2009.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

OCT 9 2009

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515-6501

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 09-34, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Egypt for defense articles and services estimated to cost $3.2 billion. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Beth M. McCormick

Beth M. McCormick
Deputy Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Regional Balance (Classified Document Provided Under Separate Cover)

Same ltr to:

House	Senate
Committee on Foreign Affairs	Committee on Foreign Relations
Committee on Armed Services	Committee on Armed Services
Committee on Appropriations	Committee on Appropriations

Transmittal No. 09-34

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) **Prospective Purchaser:** Egypt

(ii) **Total Estimated Value:**

Major Defense Equipment*	$2.0 billion
Other	$1.2 billion
TOTAL	$3.2 billion

(iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:**

Major Defense Equipment

24 F-16C/D Block 50/52 Aircraft installed with either the F100-PW-229 or F110-GE-129 Increased Performance Engines (IPE) and APG-68(V)9 radars
6 F100-PW-229 or F110-GE-129 IPE spare engines
6 APG-68(V)9 spare radar sets
60 LAU-129/A Common Rail Launchers
28 AN/APX-113 Advanced Identification Friend or Foe (AIFF) Systems without Mode IV
28 M61 20mm Vulcan Cannons

Non-MDE Equipment

28 AN/ALQ-211 Advanced Integrated Defensive Electronic Warfare Systems (AIDEWS); or Advanced Countermeasures Electronic Systems (ACES) which includes the AN/ALQ-187 Electronic Warfare System and the AN/ALR-93 Radar Warning Receiver
28 AN/ARC-238 Single Channel Ground and Airborne Radio System (SINCGAR) radios without HAVE QUICK I/II
4 F-9120 Advanced Airborne Reconnaissance Systems or DB-110 Reconnaissance Pods
28 Global Positioning Systems (GPS) and Embedded GPS/Inertial Navigation Systems (INS) with Standard Positioning Service commercial code only

* as defined in Section 47(6) of the Arms Export Control Act.

Non-MDE Equipment (Cont'd)

12 AN/AAQ-33 SNIPER Advanced Targeting Pods or AN/AAQ-28 LITENING Targeting Pods
24 pairs of Conformal Fuel Tanks
28 AN/ALE-47 Countermeasures Dispensing Systems

Also included: Base construction, support equipment, software development/integration, tanker support, ferry services, Cartridge Actuated Devices/Propellant Actuated Devices (CAD/PAD), repair and return, modification kits, spares and repair parts, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor technical, engineering, and logistics support services, and other related elements of logistics support.

(iv) Military Department: Air Force (SAB)

(v) Prior Related Cases, if any:
FMS case SNA-$975M-29Jun80
FMS case SPA-$1.2B-23May82
FMS case STH-$1.3B-8Oct87
FMS case STI-$1.7B-31Mar91
FMS case STP-$600M-30May96
FMS case STR-$998M-3Jun99

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached

(viii) Date Report Delivered to Congress: OCT 9 2009

POLICY JUSTIFICATION

Egypt –F-16C/D Block 50/52 Aircraft

The Government of Egypt has requested a possible sale of:

Major Defense Equipment

24 F-16C/D Block 50/52 Aircraft installed with either the F100-PW-229 or F110-GE-129 Increased Performance Engines (IPE) and APG-68(V)9 radars
6 F100-PW-229 or F110-GE-129 IPE spare engines
6 APG-68(V)9 spare radar sets
60 LAU-129/A Common Rail Launchers;
28 AN/APX-113 Advanced Identification Friend or Foe (AIFF) Systems without Mode IV
28 M61 20mm Vulcan Cannons

Non-MDE Equipment

28 AN/ALQ-211 Advanced Integrated Defensive Electronic Warfare Systems (AIDEWS); or Advanced Countermeasures Electronic Systems (ACES) which includes the AN/ALQ-187 Electronic Warfare System and the AN/ALR-93 Radar Warning Receiver
28 AN/ARC-238 Single Channel Ground and Airborne Radio System (SINCGAR) radios without HAVE QUICK I/II
4 F-9120 Advanced Airborne Reconnaissance Systems or DB-110 Reconnaissance Pods
28 Global Positioning Systems (GPS) and Embedded GPS/ Inertial Navigation Systems (INS) with Standard Positioning Service commercial code only
12 AN/AAQ-33 SNIPER Advanced Targeting Pods or AN/AAQ-28 LITENING Targeting Pods
24 pairs of Conformal Fuel Tanks
28 AN/ALE-47 Countermeasures Dispensing Systems

Also included: Base construction, support equipment, software development/integration, tanker support, ferry services, Cartridge Actuated Devices/Propellant Actuated Devices (CAD/PAD), repair and return, modification kits, spares and repair parts, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor technical, engineering, and logistics support services, and other related elements of logistics support. The estimated cost is $3.2 billion.

The proposed sale will contribute to the foreign policy and national security objectives of the United States by enhancing the capability of Egypt, a major non-NATO ally. Delivery of this weapon system will greatly enhance Egypt's interoperability with the U.S., making it a more valuable partner in an important area of the world, as well as supporting Egypt's legitimate need for its own self-defense.

The proposed sale will allow the Egyptian Air Force to modernize its aging air force by acquiring new fighter aircraft, thereby enabling Egypt to support both its own air defense needs and coalition operations. The country will have no difficulty absorbing this new capability into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Lockheed Martin Aeronautics Company in Fort Worth, Texas. The proposed sale also involves the following companies:

Lockheed Martin Missile and Fire Control	Dallas, Texas
Lockheed Martin Simulation, Training, and Support	Fort Worth, Texas
BAE Advanced Systems	Greenland, New York
Boeing Corporation	Seattle, Washington
Boeing Integrated Defense Systems (three locations)	St Louis, Missouri Long Beach, California San Diego, California
Raytheon Company (two locations)	Lexington, Massachusetts Goleta, California
Northrop-Grumman Electro-Optical Systems	Garland, Texas
Northrop-Grumman Electronic Systems	Baltimore, Maryland
Pratt & Whitney United Technology Company	East Hartford, Connecticut
General Electric Aircraft Engines	Cincinnati, Ohio
Goodrich ISR Systems	Danbury, Connecticut
L3 Communications	Arlington, Texas
ITT Defense Electronics and Services	McLean, Virginia
Symetrics Industries	Melbourne, Florida

There are no known offset agreements in connection with this proposed sale.

Implementation of this proposed sale will require multiple trips to Egypt involving U.S. Government and contractor representatives for technical reviews/support, program management, and training over a period of 15 years.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 09-34

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. This sale will involve the release of sensitive technology to Egypt. The F-16C/D Block 50/52 weapon system is unclassified, except as noted below. The aircraft utilizes the F-16 airframe and features advanced avionics and systems. The Block 50/52 aircraft have the Pratt and Whitney F-100-PW-229 or General Electric F-110-GE-129 engine, AN/APG-68(V)9 radar, digital flight control systems, internal and external electronic warfare equipment, Advanced IFF without Mode IV, operational flight program, and software computer programs.

2. Sensitive and/or classified (up to Secret) elements of the F-16C/D aircraft proposed for sale include hardware, accessories, components, and associated software: AN/APG-68(V)9 Radar, AN/APX-113 Advanced Identification Friend or Foe (AIFF) without Mode IV capability, AN/ALE-47 Countermeasures (Chaff and Flare) set, SNIPER Targeting or LITENING Advanced Targeting Pods, F-9120 Advanced Airborne Reconnaissance System or DB-110 Reconnaissance Pods, Embedded Global Positioning System/Inertial Navigation System with Standard Positioning Services commercial code only, Advanced Integrated Defensive Electronic Warfare Suite (AIDEWS) or Advanced Countermeasures Electronic System (ACES), Modular Mission Computer, Have Glass I/II without Infrared top coat, Digital Flight Control System, F-100 or F-110 engine infrared signature, and Advanced Interference Blanker Unit. Additional sensitive areas include operating manuals and maintenance technical orders containing performance information, operating and test procedures, and other information related to support operations and repair. The hardware, software, and data identified are classified to protect vulnerabilities, design and performance parameters, and other similar critical information.

3. The AN/APG-68(V)9 radar is the latest model of the APG-68 radar. This model contains the latest digital technology available for a mechanically scanned antenna, including higher processor power, higher transmission power, more sensitive receiver electronics, and an entirely new capability, Synthetic Aperture Radar (SAR), which creates higher-resolution ground maps from a much greater distance than previous versions of the APG-68. The upgrade features a 30% increase in detection range of air targets, a five-fold increase in processing speed, a ten-fold increase in

memory, as well as significant improvements in all modes, jam resistance and false alarm rates. Complete hardware is classified Confidential; major components and subsystems are classified Confidential; software is classified Secret; and technical data and documentation are classified up to Secret.

4. The SNIPER Targeting System (AN/AAQ-33) is Unclassified but contains state-of-the-art technology. Information on performance and inherent vulnerabilities is classified Secret. The software (object code) is classified Confidential. Sensitive elements include the Forward Looking Infrared (FLIR) sensors, Laser Pulse Interval Modulation (PIM) and doublet coding, the AGM-65 Missile Boresight Correlator (MBC), and ECCM features that increase capability in a jamming environment. The SNIPER system to be released will not include the Laser Pulse Interval Modulation (PIM), laser doublet coding, or the Lockheed Martin (LM)-proprietary XR image processing algorithm (no extended range capability).

5. The LITENING Advanced Targeting System (AN/AAQ-28) is Unclassified but contains technology representing the latest state-of-the-art in several areas. Information on performance and inherent vulnerabilities is classified Secret. Software (object code) is classified Confidential. Sensitive elements include the forward looking infrared (FLIR) sensors, Laser Pulse Interval Modulation (PIM) and doublet coding, and the AGM-65 Missile Boresight Correlator (MBC), and ECCM features that increase capability in a jamming environment. The LITENING system to be released will not include laser PIM, laser doublet coding, nor the Northrop Grumman-proprietary microscan (no extended range capability).

6. The AN/APX-113 Identification Friend or Foe (IFF) System is Unclassified unless Mode IV operational evaluator parameters are loaded into the equipment. Classified elements of the IFF system include software object code, operating characteristics, parameters, and technical data. Mode IV anti-jam performance specifications/data, software source code, algorithms, and tempest plans or reports will not be offered, released, discussed or demonstrated.

7. The AN/ALQ-211 Airborne Integrated Defensive Electronic Warfare System (AIDEWS) provides passive radar warning, wide spectrum RF jamming, and control and management of the entire Electronic Warfare (EW) system. It is an internally mounted suite. The commercially developed system software and hardware are Unclassified. The system is classified Secret when loaded with a U.S.-derived EW database.

8. Advanced Countermeasures Electronic System (ACES) provides passive radar warning, wide spectrum RF jamming, and control and management of the entire Electronic Warfare (EW) system. It is an internally mounted suite. The commercially developed system software and hardware is Unclassified. The system is classified Secret when loaded with a U.S. derived EW database.

9. The AN/ARC-238 Single Channel Ground and Airborne Radio System (SINCGAR) is a voice communications radio system that is Unclassified without HAVE QUICK II.

10. Software, hardware, and other data/information, which is classified or sensitive, are reviewed prior to release to protect system vulnerabilities, design data, and performance parameters. Some end-item hardware, software, and other data identified above are classified at the Confidential and Secret level. Potential compromise of these systems is controlled through management of the basic software programs of highly sensitive systems and software-controlled weapon systems on a case-by-case basis.

11. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

[FR Doc. E9–25525 Filed 10–22–09; 8:45 am]
BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Availability for Exclusive, Partially Exclusive, or Non-Exclusive Licensing of U.S. Patent Application No. 12/432,842 Filed April 30, 2009 Entitled: ''A Soil Stabilization System, Stabilized Soil Comprising Same, and a Method of Stabilizing Soil''

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DOD.

ACTION: Notice.

SUMMARY: This announcement serves as notice of the availability of technology for licensing. This invention has non-government co-inventors and this announcement pertains only to the licensing of the federal government's rights, not those of the non-government co-inventors.

DATES: Proposals for an exclusive, partially exclusive, or non-exclusive license must be submitted within 60 days after the publication of this notice.

ADDRESSES: United States Army Engineer Research and Development Center, Waterways Experiment Station, ATTN: CEERD–ZA–T (Mr. Phillip Stewart), 3909 Halls Ferry Road, Vicksburg, MS 39180–6199.

FOR FURTHER INFORMATION CONTACT: Mr. Phillip Stewart, (601) 634–4113, FAX (601) 634–4180, e-mail: *phillip.stewart@usace.army.mil.*

SUPPLEMENTARY INFORMATION: This invention has non-government co-inventors and this announcement pertains only to the licensing of the federal government's rights, not to the rights of the non-government inventors. The technology claimed in this patent application improves a soil's resistance to deformation, prevents complete rewetting of the soil which improves freeze-thaw resistance and durability, and reduces fugitive dust. This method of stabilization provides for immediate use with no curing time necessary and is particularly effective in extreme cold climates with sandy, gravelly soils where emulsions and hydraulic cements will not effectively cure. If damaged due to extreme traffic loads or numbers, the system may be reworked and re-compacted with no loss in effectiveness. It has been demonstrated to provide cost-savings in remote locations where importation of crushed aggregate to construct pavements is costly and impractical.

Each interested party is requested to submit an application for an exclusive, partially exclusive, or non-exclusive patent license within 60 days of publication of this notice in the **Federal Register**. The application should contain the information described in 37 CFR 404.8. The applications will be evaluated using the following criteria:

1. Demonstrated ability to manufacture and/or market the patented technology.

2. Presentation of applicant's plan to manufacture and/or market products/systems based on the patented technology.

3. Time required to bring the item to market.

4. License fee and/or royalty payment offered.

5. Preference given to Small Business.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. E9–25541 Filed 10–22–09; 8:45 am]
BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning System and Method for the Deconvolution of Mixed DNA Profiles Using a Proportionately Shared Allele Approach

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: Announcement is made of the availability for licensing of the invention set forth in U.S. Patent Application Serial No. 12/421,124, entitled ''System and Method for the Deconvolution of Mixed DNA Profiles Using a Proportionately Shared Allele Approach.'' The United States Government, as represented by the Secretary of the Army, has rights to this invention.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research and Technology Applications (ORTA), (301) 619–6664, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: The U.S. Army intends to move expeditiously to license this invention. Licensing application packages and other materials are available from the ORTA. All applications and commercialization plans must be returned to the ORTA, at (*see* **ADDRESSES** section), by November 30, 2009. Interest in an exclusive and/or non-exclusive license can be proposed in the same license application. Financial terms should also be included. Additional information and revisions to applications may be requested by the ORTA through December 11, 2009. The ORTA will evaluate applications, provide feedback as deemed appropriate, and negotiate licensing terms during the period of January through March 2010. Subsequently, draft license agreement(s) will be issued for review and signature. The Army, in its decisions concerning the granting of licenses, will give special consideration to small business firms. The Army intends to insure that its licensed inventions are broadly commercialized throughout the United States and the world. The Army intends that licensees will assume past and future patent prosecution costs.

(Authority: 35 U.S.C. 207, 37 CFR part 404).

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. E9–25542 Filed 10–22–09; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 23, 2009.

ADDRESSES: Written comments 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, be faxed to (202) 395–5806 or send e-mail to *oira_submission@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. 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 that notice containing proposed information collection requests prior to submission of these requests to OMB. 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. OMB invites public comment.

Dated: October 20, 2009.

Angela C. Arrington,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Office of Elementary and Secondary Education

Type of Review: Extension.

Title: State Fiscal Stabilization Fund MOE Guidance.

Frequency: Once.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 10.

Burden Hours: 10.

Abstract: This guidance supplements the April 2009 Guidance on the State Fiscal Stabilization Fund program and provides additional information on the statutory maintenance-of-effort (MOE) requirements and the process through which a State applies for an MOE waiver.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 4111. 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. E9–25608 Filed 10–22–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

RIN 1810–AB09

Race to the Top Fund

Catalog of Federal Domestic Assistance (CFDA) Number: 84.395C.

AGENCY: Department of Education.

ACTION: Notice of public meetings and request for input to gather technical

expertise pertaining to a possible Race to the Top program, and provide technical assistance for the development and implementation of high-quality assessments based on common standards.

SUMMARY: By March 2010, the Secretary of Education (Secretary) intends to announce a competition for a program that would support one or more consortia of States that are working toward jointly developing and implementing common, high-quality assessments aligned with a consortium's common set of K–12 standards that are internationally benchmarked and that build toward college and career readiness by the time of high school completion. To inform the design of this program and the development of a notice inviting applications that establishes the requirements for this competition, and to provide technical assistance to States, the Secretary is seeking input from States, technical experts, and members of the public through public meetings and written submissions. Following the public meetings and review of the written submissions, the Department intends to publish a notice inviting applications for such a competition.

DATES: Public meetings will be held on the dates and at the locations specified later in this notice. Written submissions must be received by the Department on or before 5:00 p.m., Eastern time, on Wednesday, December 2, 2009.

ADDRESSES: For those submitting written input, we encourage submissions by e-mail using the following address: *racetothetop.assessmentinput@ed.gov.* You must include the term ''Race to the Top Assessment Program'' in the subject line of your e-mail. If you prefer to send your input by mail, address it to Office of Elementary and Secondary Education, Attention: Race to the Top Assessment Program—Public Input Meetings, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E108, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Education, 400 Maryland Avenue, SW., room 3E108, Washington, DC 20202. *Telephone:* 202–453–7246 or by e-mail: *racetothetop.assessment@ed.gov.*

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Background: The Race to the Top Fund, authorized under the American Recovery and Reinvestment Act of 2009 (ARRA), Public Law 111–5, provides $4.35 billion for competitive grants to States to encourage and reward States that are creating the conditions for education innovation and reform; implementing ambitious plans in the four education reform areas described in the ARRA; and achieving significant improvement in student outcomes, including making substantial gains in student achievement, closing achievement gaps, improving high school graduation rates, and ensuring student preparation for success in college and careers.

The Department is considering implementing two separate programs under the Race to the Top Fund. The first, a general program, will be announced later this Fall through a notice inviting applications and notice of final priorities, requirements, definitions, and selection criteria. Under this general program, the Department will award approximately $4 billion to State applicants that have demonstrated that they have created certain conditions for reform and for increased student achievement and propose to develop and implement comprehensive reform strategies that are integrated across the four ARRA education reform areas.

Through this notice, we are seeking input on a second proposed program (Assessment Program), which would provide for approximately $350 million in grants to consortia of States for the development of common, high-quality assessments aligned with an applicant consortium's common set of K–12 standards that are internationally benchmarked and that build toward college and career readiness by the time of high school completion. In addition, at least 50 percent of the award to States under this proposed competition must be used to provide subgrants to local educational agencies (LEAs), including public charter schools identified as LEAs under State law, based upon LEAs' relative shares of funding under Part A of Title I of the Elementary and Secondary Education Act of 1965, as amended (ESEA).

At a later date and depending upon the input from the public meetings and written submissions described in this notice, the Secretary intends to issue a notice inviting applications for a competition for this second program that will set forth the requirements and criteria for the submission of applications. If the Secretary determines that it is not feasible to conduct this second program, the $350 million designated for this program will revert to fund additional grants under the general Race to the Top program.

Because requirements for an assessment program are highly technical, the Department wishes to solicit input from assessment experts, directors of large-scale assessment programs, States, other key stakeholders, and members of the public to inform the design and development of this program, including the notice inviting applications and to provide technical assistance to States. Therefore, the Department will hold a series of public meetings at which invited experts and members of the public will have the opportunity to provide input, as well as the opportunity to submit written input. Should we decide to implement this Assessment Program by holding a competition, we do not intend to conduct notice and comment rulemaking. Section 437(d)(1) of the General Education Provisions Act, 20 U.S.C. 1232(d)(1), allows the Department to waive rulemaking for the first grant competition under a new or substantially revised program authority. This would be the first competition for an Assessment Program under the Race to the Top Fund.

In addition to informing the design and development of the potential competition and the notice inviting applications, the Department anticipates that these meetings will also enable both the Department and States to learn more about the design, development, and implementation of high-quality assessments and will support State consortia in developing the highest-quality proposals with the greatest likelihood of impact. We anticipate that States, in particular, will acquire critical knowledge about best practices in assessments, and then be able to employ that knowledge in developing their applications and in designing high-quality assessments.

Details of Public Meetings

Structure of Public Meetings

The Department anticipates that each meeting will have two components as follows:

(1) Input from invited panels of experts and stakeholders:

○ Each meeting will have an invited set of panelists who will have a set amount of time to respond individually to the questions in this notice.

○ The Department representatives will then ask questions of individual panelists and facilitate cross-panelist discussion.

(2) Open opportunity to share input:

○ Each meeting will have 60 to 90 minutes dedicated to opportunities for interested members of the public, who

have registered to speak, to respond to the questions in this notice.

○ Each individual scheduled to speak will have 5 minutes to provide oral input.

○ Written submissions will also be accepted as described in the ''Submission of Written Input'' section.

Each meeting will likely focus on a particular topic as indicated in the next section. The Department will share any updates, including posting additional questions, online at *http://www.ed.gov/programs/racetothetop-assessment.index.html.*

Topic Areas, Dates, Times, Locations, and Registration Information

The public meetings will occur on the following dates at the times and locations indicated below.

- *Topic Area:* General Assessment:
  - ○ Thursday, November 12; in Boston, MA; at the Embassy Suites Boston at Logan Airport, 207 Porter Street, Boston, MA; from 10 a.m. to 5 p.m.
  - ○ Tuesday, November 17; in Atlanta, GA; at the Atlanta Airport Marriott, 4711 Best Road, Atlanta, GA; from 10 a.m. to 5 p.m.
  - ○ Tuesday, December 1; in Denver, CO; at the Grand Hyatt Denver, 1750 Welton Street, Denver, CO; from 10 a.m. to 5 p.m.
- *Topic Area:* High School Assessments:
  - ○ Friday, November 13; in Boston, MA; at the Embassy Suites Boston at Logan Airport, 207 Porter Street, Boston, MA; from 1:30 p.m. to 5 p.m.
- *Topic Area:* Assessment of Students with Disabilities:
  - ○ Wednesday, November 18; in Atlanta, GA; at the Atlanta Airport Marriott, 4711 Best Road, Atlanta, GA; from 9 a.m. to 12:30 p.m.
- *Topic Area:* Assessment of English Language Learners:
  - ○ Wednesday, December 2; in Denver, CO; at the Grand Hyatt Denver, 1750 Welton Street, Denver, CO; from 9 a.m. to 12:30 p.m.
- *Topic Area:* Technology and Innovation in Assessment:
  - ○ Friday, November 13; in Boston, MA; at the Embassy Suites Boston at Logan Airport, 207 Porter Street, Boston, MA; from 9 p.m. to 12:30 p.m.

Attendance: If you are interested in attending an event, you must register by sending an e-mail to *racetothetop.assessment@ed.gov.* You must include in the subject line of your email the city in which you wish to attend, and the date(s) on which you wish to attend. Registrations will be processed on a first-come, first-served basis with space reserved for State participants.

Providing input: If you are interested in speaking during the open input portion of the meeting, you must register by sending an e-mail to *racetothetop.assessmentspeaker@ed.gov.* You must include in the subject line of your email the word ''Speaker'', the city in which you wish to speak, and the topic area to which you wish to respond. Registrations will be processed on a first-come, first-served basis. People who are unable to attend a meeting in person or who do not register early enough to speak during the meeting are encouraged to submit written input.

Assistance to Individuals With Disabilities at the Public Meetings

The meeting sites will be accessible to individuals with disabilities and sign language interpreters will be available. If you need an auxiliary aid or service other than a sign language interpreter to participate in the meeting (*e.g.,* interpreting service such as oral, cued speech, or tactile interpreter; assisted listening device; or materials in alternate format), notify the contact person listed under **FOR FURTHER INFORMATION CONTACT** at least two weeks before the scheduled meeting date. Although we will attempt to meet a request we receive after this date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Submission of Written Input

All interested parties, including those who cannot attend a meeting or from whom we do not have time to hear at a meeting, may submit written input in response to this notice.

Written input will be accepted at the meeting site or via e-mail and mail at the addresses listed in the **ADDRESSES** section of this notice. Written input must be submitted by the date listed in the **DATES** section.

When submitting input at the meetings, we request that you submit three written copies and an electronic file (CD or diskette) of your statement at the meeting. Please include your name and contact information on the written and electronic files.

Both at the meetings and in your written submission, we encourage you to be as specific as possible. To ensure that your input is fully considered, we urge you to identify clearly the specific question, purpose, and characteristic that each of your suggestions addresses and to arrange your submission in the order of the questions listed later in this notice. Please also include a description of your involvement, if any, in statewide assessment practices.

Sharing Input Publicly

The Department is committed to gathering and sharing publicly the input from the meetings and written submissions. Each meeting will be video-taped and/or transcribed, and the video and/or transcript will be available for viewing at *http://www.ed.gov/programs/racetothetop-assessment.index.html.* All written input received will be available for viewing via this Web site, as well.

Assessment Program Design and Questions

The Assessment Program is intended to support consortia of States working toward jointly developing and implementing a next generation of common summative assessments that are aligned with a common set of kindergarten-through-grade-12 internationally benchmarked, college and career ready standards that model and support effective teaching and student learning. Such summative assessments would allow students, including students with disabilities and English language learners, to demonstrate at each grade level tested their mastery of knowledge and skills and the extent to which each student is on track to college and career readiness by the time of high school graduation.

In designing the requirements for this program, the Secretary is particularly interested in innovative and effective approaches to assessment that will assist States in creating powerful and useful systems of assessment that meet these requirements.

In the following paragraphs, we have provided a framework that outlines the characteristics we believe should be required or encouraged in assessment systems supported by a grant under this proposed program. We then list the specific questions on which we seek input, taking into account this framework. In addition, at least 50 percent of the award to States under any Race to the Top competition must be used to provide subgrants to local educational agencies (LEAs), including public charter schools identified as LEAs under State law, based upon LEAs' relative shares of funding under Part A of Title I of the Elementary and Secondary Education Act of 1965, as amended (ESEA). This notice also highlights potential uses and questions for the LEA portion of the funding.

It is important to note that this proposed program, the public meetings,

and the framework below would focus on the design and quality of assessment systems and not accountability policies, such as those described in section 1116 of the ESEA. Given the pending reauthorization of the ESEA, we intend that the Assessment Program would support the development of the best possible assessments that could be not only appropriately used by States under the current ESEA assessment and accountability requirements, but could also serve additional purposes as outlined later in this notice.

Framework

Design of Assessment Systems—General Requirements

The Department is particularly interested in supporting the development of summative assessments that measure—

- Individual student achievement as measured against standards that build toward college and career readiness by the time of high school completion;
- Individual student growth (that is, the change in student achievement data for an individual student between two or more points in time); and
- The extent to which each individual student is on track, at each grade level tested, toward college or career readiness by the time of high school completion.

At a minimum, we would expect that the common assessments would measure each of these elements in the subject areas of reading/language arts and mathematics, and would provide information for each student annually in grades 3 through 8, and provide information at the high school level about each student's college and/or career readiness. The assessments need not be limited to a single end-of-year assessment but could include multiple summative components administered at different points during the school year. Moreover, the assessments might be viewed as replacing rather than adding to the assessments currently in use in States participating in the consortia.

Information gathered from the assessments should be useable in informing—

- Teaching, learning, and program improvement;
- Determinations of school effectiveness;
- Determinations of principal and teacher effectiveness to inform evaluation and the provision of support to teachers and principals; and
- Determinations of individual student college and career readiness, such as determinations made for high school exit decisions, college course placement in credit-bearing classes, or college entrance.

Design of Assessment Systems—Required Characteristics

With respect to the design of the assessment system, the Department would likely require that the assessments, at a minimum, meet the following characteristics:

(1) Reflect and support good instructional practice by eliciting complex responses and demonstrations of knowledge and skills consistent with the goal of being college and career ready by the time of high school completion;

(2) Be accessible to the broadest possible range of students, with appropriate accommodations for students with disabilities and English language learners;

(3) Contain varied and unpredictable item types and content sampling, so as not to create incentives for inappropriate test preparation and curriculum narrowing;

(4) Produce results that can be aggregated at the classroom, school, LEA, and State levels;

(5) Produce reports that are relevant, actionable, timely, accurate, and displayed in ways that are clear and understandable for target audiences, including teachers, students and their families, schools, LEAs, communities, States, institutions of higher education, policymakers, researchers, and others;

(6) Make effective and appropriate use of technology;

(7) Be valid, reliable, and fair;

(8) Be appropriately secure for the intended purposes;

(9) Have the fastest possible turnaround time on scoring, without forcing the use of lower-quality assessment items; and

(10) Be able to be maintained, administered, and scored at a cost that is sustainable over time.

Design of Assessment Systems—Desired Characteristics

In addition, the Department is particularly interested in assessment systems in which—

(1) Teachers are involved in scoring of constructed responses and performance tasks in order to measure effectively students' mastery of higher-order content and skills and to build teacher expertise and understanding of performance expectations;

(2) The assessment approach can be easily adapted to include summative assessments in other content areas (e.g., science, social studies) in the future;

(3) The technology ''platform'' created for summative assessments supports assessment and item development, administration, scoring, and reporting that increases the quality and cost-effectiveness of assessments; and

(4) The technology infrastructure created for summative assessments can be easily adapted to support practitioners and professionals in the development, administration, and/or scoring of high-quality interim assessments.

Design of Assessment Systems—LEA-Level Activities

With funds that are directed to LEAs under this program, the Department is interested in supporting LEA-level activities that are designed by the State consortium to support development and implementation of its assessment system. With respect to LEA-level funds, the Department would likely require that the funds be used to support the following types of activities conducted by LEAs that choose to participate:

- Pilot testing of the new assessments with different populations, including English-language learners and students with disabilities;
- Designing systems to support and enable effective and consistent teacher scoring, providing professional development support for these activities, and implementing them statewide;
- Statewide transition to the consortium's K–12 common, college and career ready, internationally benchmarked standards, with new high-quality assessments (consistent with the State plans described in the notice of proposed priorities, requirements, definitions, and selection criteria for the Race to the Top Fund general program (74 FR 37804, July 29, 2009). Such LEA activities might include: developing a rollout plan for implementation of the standards and assessments together with all of their supporting components; developing or acquiring, disseminating, and implementing high-quality instructional materials and assessments; developing or acquiring and delivering high-quality professional development to support the transition to new standards and assessments; and engaging in other strategies that translate the standards and information from assessments into classroom practice for all students; and
- Development of formative or interim assessments that align with State summative assessments as part of a comprehensive assessment system.

Questions for Input

The specific questions on which the Department seeks input are listed

below. All input, including expert presentations and discussions, public input, and written submissions, should be primarily focused on responding to these questions in the context of the framework outlined above, and may also provide input on the framework itself. We encourage you to make your input as specific as possible, to provide evidence to support your proposals, and to present the information in a context and format that will be helpful to States implementing high-quality assessments. Questions focus on the topics of general assessment, high school assessment, assessment of English language learners, assessment of students with disabilities, technology and innovation in assessment, specific technical assessment questions, and project management.

To ensure that your input is fully considered in the development of the notice inviting applications, we urge you to identify clearly the specific question, purpose, or characteristic that you are addressing, and to arrange your input in the order of the questions as they are listed in the next section.

General Assessment Questions

(1) Propose an assessment system (that is, a series of one or more assessments) that you would recommend and that meets the general requirements and required characteristics described in this notice. Describe how this assessment system would address the tensions or tradeoffs in meeting all of the general requirements and required characteristics. Describe the strengths and limitations of your recommended system, including the extent to which it is able to validly meet each of the requirements described in this notice. Where possible, provide specific illustrative examples.

(2) For each assessment proposed in response to question (1), describe the—

- Optimal design, including—
  - Type (*e.g.,* norm-referenced, criterion-referenced, adaptive, other);
  - Frequency, length, and timing of assessment administrations (including a consideration of the value of student, teacher, and administrative time);
  - Format, item-type specifications (including the pros and cons of using different types of items for different purposes), and mode of administration;
  - Whether and how the above answers might differ for different grade levels and content areas;
- Administration, scoring, and interpretation of any open-ended item types, including methods for ensuring consistency in teacher scoring;
- Approach to releasing assessment items during each assessment cycle in order to ensure public access to the assessment questions; and
- Technology and other resources needed to develop, administer, and score the assessments, and/or report results.

(3) ARRA requires that States award at least 50 percent of their Race to the Top funds to LEAs. The section of this notice entitled Design of Assessment Systems—LEA-Level Activities, describes how LEAs might be required to use these funds. What activities at the LEA level would best advance the transition to and implementation of the consortium's common, college and career ready standards and assessments?

(4) If a goal is that teachers are involved in the scoring of constructed responses and performance tasks in order to measure effectively students' mastery of higher-order content and skills and to build teacher expertise and understanding of performance expectations, how can such assessments be administered and scored in the most time-efficient and cost-effective ways?

(5) Given the assessment design you proposed in response to question (1), what is your recommended approach to competency-based student testing versus grade-level-based student testing? Why? How would your design ensure high expectations for all students?

(6) Given the assessment design you proposed in response to question (1), how would you recommend that the assessments be designed, timed, and scored to provide the most useful information on teacher and principal effectiveness?

Specific Technical Assessment Questions

(1) What is the best technical approach for ensuring the vertical alignment of the entire assessment system across grades (*e.g.,* grades 3 through 8 and high school)?

(2) What would be the best technical approach for ensuring external validity of such an assessment system, particularly as it relates to postsecondary readiness and high-quality internationally benchmarked content standards?

(3) What is the proportion of assessment questions that you recommend releasing each testing cycle in order to ensure public access to the assessment while minimizing linking risk? [1] What are the implications of this proportion for the costs of developing new assessment questions and for the costs and design of linking studies across time?

High School Assessment

Provide recommendations on the optimal approach to measuring each student's college and career readiness by the time of high school completion. In particular, consider—

(1) How would you demonstrate that high school students are on track to college and career readiness, and at what points throughout high school would you recommend measuring this? Discuss your recommendations on the use of end-of-course assessments versus comprehensive assessments of college and career readiness.

Note: If you recommend end-of-course assessments, please share your input on how to reconcile the fact that college and career ready standards might not include all of the topics typically covered in today's high school courses.

Assessment of English Language Learners

(1) Provide recommendations for the development and administration of assessments for each content area that are valid and reliable for English language learners. How would you recommend that the assessments take into account the variations in English language proficiency of students in a manner that enables them to demonstrate their knowledge and skills in core academic areas? Innovative assessment designs and uses of technology have the potential to be inclusive of more students. How would you propose we take this into account?

(2) In the context of reflecting student achievement, what are the relative merits of developing and administering content assessments in native languages? What are the technical, logistical, and financial requirements?

Assessment of Students With Disabilities

(1) Taking into account the diversity of students with disabilities who take the assessments, provide recommendations for the development

[1] Michael J. Kolen and Robert L. Brennan, Test Equating, Scaling, and Linking: Methods and Practices (2nd ed), 2004, New York: Springer-Verlag. See especially: Chapter 6, ''Item Response Theory Methods,'' Section 9, ''Using IRT Calibrated Item Pools''; and Chapter 8, ''Practical Issues in Equating,'' Section 1, ''Equating and the Test Development Process'' and Section 6, ''Conditions Conducive to Satisfactory Equating.''

See also Hedges, L. V., and Vevea, J. L. (1997). A study of equating in NAEP. *http://www.air.org/publications/documents/hedges_rpt.pdf.*

and administration of assessments for each content area that are valid and reliable, and that enable students to demonstrate their knowledge and skills in core academic areas. Innovative assessment designs and uses of technology have the potential to be inclusive of more students. How would you propose we take this into account?

Technology & Innovation in Assessment

(1) Propose how you would recommend that different innovative technologies be deployed to create better assessments, and why. Please include illustrative examples in areas such as novel item types, constructed response scoring solutions, uses of mobile computing devices, and so on.

(2) We envision the need for a technology platform for assessment development, administration, scoring, and reporting that increases the quality and cost-effectiveness of the assessments. Describe your recommendations for the functionality such a platform could and should offer.

(3) How would you create this technology platform for summative assessments such that it could be easily adapted to support practitioners and professionals in the development, administration, and/or scoring of high-quality interim assessments?

(4) For the technology ''platform'' vision you have proposed, provide estimates of the associated development and ongoing maintenance costs, including your calculations and assumptions behind them.

Project Management

(1) Provide estimates of the development, maintenance, and administration costs of the assessment system you propose, and your calculations and assumptions behind them.

(2) Describe the range of development and implementation timelines for your proposed assessment system, from the most aggressive to more conservative, and describe the actions that would be required to achieve each option.

(3) How would you recommend organizing a consortium to achieve success in developing and implementing the proposed assessment system? What role(s) do you recommend for third parties (*e.g.,* conveners, project managers, assessment developers/partners, intermediaries)? What would you recommend that a consortium demonstrate to show that it has the capacity to implement the proposed plan?

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register,** in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: October 20, 2009.

Arne Duncan,

Secretary of Education.

[FR Doc. E9–25600 Filed 10–22–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Filings #1

October 16, 2009.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–44–000.

Applicants: Ameren Services Company.

Description: Illinois Power Co submits the Transmission Construction Agreement between Ameren Services and Prairie State Generating Company, LLC, to be effective 10/6/09.

Filed Date: 10/13/2009.

Accession Number: 20091014–0081.

Comment Date: 5 p.m. Eastern Time on Tuesday, November 3, 2009.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES10–4–000.

Applicants: Trans Bay Cable LLC.

Description: Application of Trans Bay Cable LLC for Authority to Issue Securities.

Filed Date: 10/15/2009.

Accession Number: 20091015–5102.

Comment Date: 5 p.m. Eastern Time on Monday, November 2, 2009.

Docket Numbers: ES10–5–000.

Applicants: System Energy Resources, Inc.

Description: Application of System Energy Resources, Inc., for Authorization Under FPA Section 204.

Filed Date: 10/15/2009.

Accession Number: 20091015–5103.

Comment Date: 5 p.m. Eastern Time on Monday, November 2, 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 email notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call

(866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9–25491 Filed 10–22–09; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R03–CBP–2009–0500; FRL–8972–5]

Agency Information Collection Activities; Proposed Collection; Comment Request; Chesapeake Registry; EPA ICR No. 2365.01, OMB Control No. 200908–2003–001

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces that EPA is planning to submit a request to renew an existing, approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). EPA prepared the ICR, ''Chesapeake Registry,'' on behalf of the Chesapeake Bay Program (CBP) partnership. Before submitting the ICR renewal request to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before December 22, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–CBP–2009–0500, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Mail:* Chesapeake Registry, Attn: Marguerite Duffy, Chesapeake Bay Program Office, 410 Severn Avenue, Suite 109, Annapolis, Maryland 21403.
- *Hand Delivery:* Chesapeake Registry, Attn: Marguerite Duffy, EPA Chesapeake Bay Program Office, 410 Severn Avenue, Suite 109, Annapolis, Maryland 21403. Such deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays), and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–CBP–2009–0500. 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.* 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 submit a disk or CD–ROM, EPA recommends that you include your name and other contact information in the body of your 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. 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 FURTHER INFORMATION CONTACT: Marguerite Duffy, USEPA Region III—Chesapeake Bay Program Office, Annapolis City Marina, 410 Severn Avenue, Suite 109 (3CB10), Annapolis, MD 21403; telephone number: (410) 267–5764; fax number: (410) 267–5777; e-mail address: *duffy.marguerite@epa.gov.*

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–R03–CBP–2009–0500, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the EPA Chesapeake Bay Program Office, 410 Severn Avenue, Suite 109, Annapolis, Maryland 21403. Materials are available for viewing from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays; telephone number 410–267–5700. An electronic version of the public docket is available at: *http://www.regulations.gov.* This site can be used to obtain a copy of the draft information collection request, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document (EPA–R03–CBP–2009–0500).

What Information Is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under **DATES**.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What Information Collection Activity or ICR Does This Apply to?

Affected entities: Entities potentially affected by this action are state and local governments and non-government

organizations within the Chesapeake Bay watershed.

Title: Chesapeake Registry (formerly called Activity Integration Plan).

ICR numbers: EPA ICR No. 2365.01, OMB Control No. 200908–2003–001.

ICR status: This ICR is currently scheduled to expire on 02/28/2010. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: In 2008, EPA's Region III Chesapeake Bay Program Office and its partners developed the Chesapeake Action Plan (CAP) to strengthen and expand partnerships in the watershed, enhance coordination of restoration activities, and increase the collective accountability for protecting the Chesapeake Bay. One component described in the CAP is a Web-enabled reporting system known as the Activity Integration Plan now titled Chesapeake Registry. Through this reporting system, participating organizations provide data about the activities in which they are currently engaged, or plan to be engaged in, to protect and restore the Chesapeake Bay and its watershed. The ability to capture and account for Bay-wide implementation activities was developed in response to recommendations by the Government Accountability Office and directives of the Explanatory Statement of the FY 2008 Consolidated Appropriations Act (Public Law 110–161). CBPO conducted its first activity data call in 2008 that included 10 federal agencies, 7 states, and 2 local organizations.

The EPA, on behalf of the partnership, intends to expand the data call to more than 10 non-federal agencies and organizations to strengthen the information base on which to support implementation decisions and more recently, to support Executive Order (EO) 13508, signed by President Barack Obama on May 12, 2009. Section 203(d) of the EO directs EPA to identify the ''mechanisms that will assure that governmental and other activities, including data collection and distribution, are coordinated and effective, relying on existing mechanisms where appropriate.'' Section 204 further directs that ''Federal actions to protect and restore the Chesapeake Bay are closely coordinated with actions by State and local agencies in the watershed and that the resources, authorities, and expertise of Federal, State, and local agencies are used as efficiently as possible.'' The Chesapeake Registry and associated data calls provide a mechanism for coordinated data collections among federal and non-federal entities protecting and restoring the Bay and its watershed, and the information necessary to adaptively manage the program in support of these mandates.

The Chesapeake Registry includes detailed information about the activities and funding conducted and planned by partner organizations. The organizations provide project information on the nature of the activity, responsible organization, organizational point of contact, resource levels, geographic location, and major milestones on progress towards Chesapeake Bay protection and restoration efforts. Funds reported in the Chesapeake Registry are linked to an organization's own resource base so that data associated with a set of funds is entered only by the originator of the funding. The information is organized by programmatic goal and desired result, which aligns activities to the goals of the program and helps to provide an accurate depiction of restoration activities, progress, and results. The information collection, as envisioned, will be conducted annually. Summary level information from the Chesapeake Registry is available at *http://cap.chesapeakebay.net.*

Each reporting organization is assigned a user ID and password. Security measures have been established to protect data that have been entered, including maintaining the data on a secure server on a secure network, and confirming the data with each reporting organization. Participants in the information collection are able to search the reporting system database application and view standard reports. Partners will use the enhanced and expanded data to update performance management dashboards that summarize and synthesize information so the program partners can understand, at a glance, the progress being made in key program areas. The dashboards include measures of progress, information about resources and strategic analyses of what needs to be done to improve implementation. In addition, EPA anticipates that some of the partners will use the reporting system as a tool for their own management and planning efforts.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 64.8 hours per response for state and local government agencies and 11.5 hours per response for non-government organizations. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 50 (30 state and local governments, 20 non-government organizations) initially but will likely increase over time.

Frequency of response: Annual.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 2,174.0 (64.8 hours per response for state and local governments, 11.5 hours per response for non-government organizations).

Estimated total annual costs: $104,974.20. This includes an estimated burden cost of $104,974.20 and an estimated cost of $0.00 for capital investment or maintenance and operational costs.

Are There Changes in the Estimates From the Last Approval?

EPA anticipates an annual, gradual change in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB.

What Is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to

OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: October 13, 2009.

James Edward,

Deputy Director, Chesapeake Bay Program Office, Region III.

[FR Doc. E9–25588 Filed 10–22–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[Petition IV–2008–4; FRL–8971–3]

Clean Air Act Operating Permit Program; Petition for Objection to State Operating Permit for East Kentucky Power Cooperative, Inc.—Hugh L. Spurlock Generating Station; Maysville (Mason County), KY

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on petition to object to a state operating permit.

SUMMARY: Pursuant to Clean Air Act (CAA) Section 505(b)(2) and 40 CFR 70.8(d), the EPA Administrator signed an Order, dated September 21, 2009, granting, in part, a petition to object to a merged prevention of significant deterioration (PSD) and state operating permit issued by the Kentucky Division for Air Quality (KDAQ) to East Kentucky Power Cooperative, Inc. (EKPC) for its Hugh L. Spurlock Generating Station located in Maysville, Mason County, Kentucky. This Order constitutes a final action on one of the three issues raised in the petition submitted by Sierra Club (Petitioner) on April 28, 2008. Pursuant to section 505(b)(2) of the CAA, any person may seek judicial review of the Order in the United States Court of Appeals for the appropriate circuit within 60 days of this notice under section 307(b) of the Act.

ADDRESSES: *Copies of the Order, the petition, and all pertinent information relating thereto are on file at the following location:* EPA Region 4, Air, Pesticides and Toxics Management Division, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The Order is also available electronically at the following address: *http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitions/spurlock_response2008.pdf.*

FOR FURTHER INFORMATION CONTACT: Art Hofmeister, Air Permits Section, EPA Region 4, at (404) 562–9115 or *hofmeister.art@epa.gov.*

SUPPLEMENTARY INFORMATION: The CAA affords EPA a 45-day period to review and, as appropriate, the authority to object to operating permits proposed by state permitting authorities under title V of the CAA, 42 U.S.C. 7661–7661f. Section 505(b)(2) of the CAA and 40 CFR 70.8(d) authorize any person to petition the EPA Administrator to object to a title V operating permit within 60 days after the expiration of EPA's 45-day review period if EPA has not objected on its own initiative. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the state, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period.

Petitioner submitted a petition regarding the EKPC Spurlock Generating Station on April 28, 2008, requesting that EPA object to Revision 2 to the EKPC merged PSD and title V operating permit. Pursuant to a proposed Consent Decree, EPA agreed to address the issue regarding the lack of hazardous air pollutant emission limits under section 112(g) of the CAA in an order due by September 21, 2009. The remaining two issues will be addressed in a subsequent Order.

On September 21, 2009, the Administrator issued an Order granting the petition. The Order explains EPA's rationale for granting the petition with respect to the issue described above.

Dated: October 7, 2009.

J. Scott Gordon,

Acting Regional Administrator, Region 4.

[FR Doc. E9–25584 Filed 10–22–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8598–5]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–1399 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 10/12/2009 Through 10/16/2009

Pursuant to 40 CFR 1506.9.

EIS No. 20090355, Final EIS, AFS, CA, Thom-Seider Vegetation Management and Fuels Reduction Project, To Respond to the Increasing Density and Fuels Hazard Evident along the Klamath River between Hamburg and Happy Camp, Klamath National Forest, Siskiyou County, CA, Wait Period Ends: 11/23/2009, Contact: Carol J. Sharp 530–493–1734.

EIS No. 20090356, Final EIS, AFS, MN, Border Project, Proposing Forest Vegetation Management and Related Transportation System Activities, LaCroix Ranger District, Superior National Forest, St. Louis County, MN, Wait Period Ends: 11/23/2009, Contact: Carol Booth 218–666–0020.

EIS No. 20090357, Final EIS, NPS, MO, Jefferson National Expansion Memorial, General Management Plan, Implementation, St. Louis, MO, Wait Period Ends: 11/23/2009, Contact: Tom Bradley 314–655–1600.

EIS No. 20090358, Final EIS, AFS, MT, Marsh and Tarhead Allotment Management Plans, Proposes to Authorize Grazing of Livestock under 10-year Permits, Lincoln Ranger District, Helena National Forest, Lewis and Clark Counties, MT, Wait Period Ends: 11/23/2009, Contact: Shawn Heinert 406–362–7013.

Amended Notices

EIS No. 20090254, Draft EIS, AFS, 00, Bridgeport Travel Management Project, To Provide the Primary Framework for Sustainable Management of Motor Vehicle Use on the Bridgeport Ranger District, Humboldt-Toiyabe National Forest, Mono County, CA and Lyon, Douglas, and Mineral Counties, NV, Comment Period Ends: 11/20/2009, Contact: Dave Lomis 775–884–8132.

Revision to FR Notice Published 07/31/2009: Extending Comment Period from 09/14/2009 to 11/20/2009.

Dated: October 20, 2009.

Ken Mittelholtz,

Deputy Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E9–25580 Filed 10–22–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8798–6]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for

copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7146 or *http://www.epa.gov/compliance/nepa/.* An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated July 17, 2009 (74 FR 34754).

Draft EISs

EIS No. 20090247, ERP No. D–NOA–E91027–00, Comprehensive Ecosystem-Base Amendment 1 (CE–BA1) for the South Atlantic Region, Implementation.

Summary: EPA fully supports protection of deepwater coral habitat and the application of the ecosystem-based approach to fishery management proposed by the Comprehensive Ecosystem-Based Amendment 1. Rating LO.

EIS No. 20090283, ERP No. D–NPS–F65077–WI, Apostle Islands National Lakeshore General Management Plan/Wilderness Management Plan, Implementation, Bayfield and Ashland Counties, WI.

Summary: While EPA has no objections to this project, it did request information on comparing current management zones with zones proposed in the preferred alternative. Rating LO.

EIS No. 20090286, ERP No. D–NPS–E610790FL, Biscayne National Park Fishery Management Plan, Improvement of the Status of Fisheries Resources, Implementation, Miami-Dade County, FL.

Summary: EPA expressed environmental concerns about impacts to the park fishery populations from the effects of increased human population growth, improved fishing technology, and increased recreational bycatch. Rating EC1.

EIS No. 20090307, ERP No. D–UCG–A39141–00, PROGRAMMATIC—Ballast Water Discharge Standard Project, To Implement a Ballast Water Discharge Standard to Prevent or Reduce the Number of Non-indigenous Species introduced into the United States Waters.

Summary: EPA does not object to the proposed action. Rating LO.

Final EISs

EIS No. 20090269, ERP No. F–TVA–E65082–00, Mountain Reservoirs Land Management Plan, Implementation, Proposes to Develop a Plan for Managing Nine Mountain Reservoirs: Chatuge, Hiwassee, Blue Ridge, Nottely, Ocoees 1, 2, and 3, Appalachia, and Fontana Reservoirs, Fannin, Towns, and Union Counties, GA; Cherokee, Clay, Graham, and Swain Counties, North Carolina; and Polk County, TN.

Summary: EPA continues to have environmental concerns about water quality and shoreline integrity impacts.

EIS No. 20090321, ERP No. F–SFW–L64054–AK, Kenai National Wildlife Refuge Draft Revised Comprehensive Conservation Plan, Implementation, AK.

Summary: No formal comment letter was sent to the preparing agency.

Dated: October 20, 2009.

Ken Mittelholtz,

Deputy Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E9–25583 Filed 10–22–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8972–8]

Good Neighbor Environmental Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Good Neighbor Environmental Board (GNEB) will hold a public teleconference on November 3, 2009 from 1 p.m. to 3 p.m. Eastern Standard Time. The meeting is open to the public. For further information regarding the teleconference and background materials, please contact Dolores Wesson at the number listed below.

Background: GNEB is a federal advisory committee chartered under the Federal Advisory Committee Act, Public Law 92463. GNEB provides advice and recommendations to the President and Congress on environmental and infrastructure issues along the U.S. border with Mexico. *Purpose of Meeting:* The purpose of this teleconference is to discuss and approve the Good Neighbor Environmental Board's draft advice letter to the President on the environmental effects of the U.S.-Mexico border fence and associated infrastructure. The Board will also continue discussion on the Thirteenth Report to the President.

SUPPLEMENTARY INFORMATION: If you wish to make oral comments or submit written comments to the Board, please contact Dolores Wesson at least five days prior to the meeting.

General Information: Additional information concerning the GNEB can be found on its Web site at *http://www.epa.gov/ocem/gneb.*

Meeting Access: For information on access or services for individuals with disabilities, please contact Dolores Wesson at (202) 564–1351 or e-mail her at *wesson.dolores@epa.gov.* To request accommodation of a disability, please contact Dolores Wesson at least 10 days prior to the meeting to give EPA as much time as possible to process your request.

Dated: September 9, 2009.

Dolores Wesson,

Designated Federal Officer.

[FR Doc. E9–25592 Filed 10–22–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009-0054; FRL–8795–8]

Disulfoton; Registration Review Proposed Decision; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's proposed registration review decision for the pesticide disulfoton and opens a public comment period on the proposed decision. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, that the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

DATES: Comments must be received on or before December 22, 2009.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2009–0054, by one of the following methods:

• *Federal eRulemaking Portal*: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S.

Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket identification (ID) number EPA–HQ–OPP–2009–0054. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line 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 regulations.gov or e-mail. The regulations.gov website 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 regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the 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.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. 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, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: *For pesticide specific information, contact*: Eric Miederhoff, Chemical Review Manager, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 347–8028; fax number: (703) 308–7070; e-mail address: *miederhoff.eric@epa.gov*.

For general information on the registration review program, contact: Kevin Costello, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5026; fax number: (703) 308–8090; e-mail address: *costello.kevin@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the chemical review manager listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or 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:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. 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.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What Action is the Agency Taking?

Pursuant to 40 CFR 155.58, this notice announces the availability of EPA's proposed registration review decision for the pesticide, disulfoton, case number 0102, and opens a 60–day public comment period on the proposed decision. Disulfoton is an organophosphate insecticide registered for use on asparagus, beans, broccoli, Brussels sprouts, cabbage, cauliflower, cotton, coffee beans, lettuce, radish grown for seed, Christmas trees, Easter lilies, and residential ornamentals.

The registration review docket for a pesticide includes earlier documents related to the registration review of the case. For example, the review opened with the posting of a Summary Document, containing a Preliminary Work Plan, for public comment. A Final Work Plan was posted to the docket following public comment on the initial docket.

As stated in the Disulfton Preliminary Work Plan for registration review, the Agency had intended to revise the existing risk assessments for disulfoton. However, after the publication of the Disulfton Preliminary Work Plan, pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, the Agency announced receipt of requests to voluntarily cancel all disulfoton product

registrations and then granted the voluntary cancellation requests, establishing effective cancellation dates (FRL–8437–1); (74 FR 48551) for all of the products registered for use in the United States containing the active ingredient, disulfoton. The Agency described the impact of the cancellations on the registration review of disulfoton in the Final Work Plan, which was issued on October 1, 2009. Due to the cancellation order issued affecting all disulfoton product registrations in the United States, the Agency has found that it is not necessary to conduct new risk assessments for disulfoton and is therefore issuing a proposed decision pursuant to 40 CFR 155.53(c)(2) and 40 CFR 155.58. The Agency believes that mitigation measures put into effect on product labeling through the reregistration process are adequate to protect human health and the environment until existing stocks of disulfoton are exhausted. This proposed registration review decision is described in more detail in the Disulfoton Proposed Registration Review Decision, available in the disulfoton docket.

Following public comment, the Agency will issue a registration review final decision for products containing disulfoton.

The registration review program is being conducted under congressionally mandated time frames, and EPA recognizes the need both to make timely decisions and to involve the public. Section 3(g) of FIFRA, as amended, required EPA to establish by regulation procedures for reviewing pesticide registrations, originally with a goal of reviewing each pesticide's registration every 15 years to ensure that a pesticide continues to meet the FIFRA standard for registration. The Agency's final rule to implement this program was issued in August 2006, and became effective in October 2006, and appears at 40 CFR part 155, subpart C. The Pesticide Registration Improvement Act of 2003 (PRIA) was amended and extended in September 2007. FIFRA, as amended by PRIA in 2007, requires EPA to complete registration review decisions by October 1, 2022, for all pesticides registered as of October 1, 2007.

The registration review final rule at 40 CFR 155.58(a) provides for a minimum 60–day public comment period on all proposed registration review decisions. This comment period is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the proposed decision. All comments should be submitted using the methods in **ADDRESSES**, and must be received by EPA on or before the closing date. These comments will become part of the docket for disulfoton. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

The Agency will carefully consider all comments received by the closing date and will provide a ''Response to Comments Memorandum'' in the docket. The registration review decision will explain the effect that any comments had on the decision and provide the Agency's response to significant comments.

Background on the registration review program is provided at: *http://www.epa.gov/oppsrrd1/registration_review*. A link to earlier documents related to the registration review of disulfoton is provided at: *http://www.epa.gov/oppsrrd1/registration_review/reg_review_status.htm*.

B. What is the Agency's Authority for Taking this Action?

Section 3(g) of FIFRA and 40 CFR part 155, subpart C, provide authority for this action.

List of Subjects

Environmental protection, Administrative practice and procedure, Pesticides and pests, disulfoton.

Dated: October 19, 2009.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. E9–25597 Filed 10–22–09; 8:45 am]

BILLING CODE 6560–50–S

EXPORT-IMPORT BANK OF THE U.S.

[Public Notice 126]

Agency Information Collection Activities: Final Collection; Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Submission for OMB review and comments request.

Form Title: Competitiveness Report Survey EIB 00–02 OMB 3048–003.

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. Our customers will be able to submit this form on paper or electronically.

The purpose of this survey is to fulfill the statutory mandate (Export-Import Act of 1945, as amended, 12 U.S.C. 635) which directs the Export-Import Bank to report annually to Congress any action taken toward providing export credit programs that are competitive with those offered by official foreign export credit agencies.

The following changes have been made to the survey:

1. Added question—Years in Business in Part 1, Question 1.
2. Removed ''Medium-term Loan'' as an option in Part 1, Question 4.
3. Added question—How many applications did your organization file with Ex-Im Bank in CY 2009 in Part 1, Question 2.
4. Changed the option ''Never'' to ''N/A'' in Part 2, Questions 1 and 2.
5. Removed the option ''N/A'' in ''Other'' in Part 2, Questions 1 and 2.
6. Added ''Services'' category to Part 3, Question 3.
7. Added ''Local Costs'' to Part 3, Question 5.

DATES: Comments should be received on or before December 22, 2009 to be assured of consideration.

ADDRESSES: Comments may be submitted through *http://www.Regulations.Gov* or mailed to Monika Edwards, Export-Import Bank of the United States, 811 Vermont Ave., NW., Washington, DC 20571.

SUPPLEMENTARY INFORMATION:

Titles and Form Number: EIB 00–02 Competitiveness Report Survey.

OMB Number: 3048–003.

Type of Review: Regular.

Need and Use: This information will be used to report annually to Congress any action taken toward providing export credit programs that are competitive with those offered by official foreign export credit agencies.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 125.

Estimated Time per Respondent: 0.05 hours.

Government Annual Burden Hours: 6.25.

Frequency of Reporting or Use: Yearly.

BILLING CODE 6690–01–P

COMPETITIVENESS REPORT SURVEY 2009

PART 1 – EXPORTER/BANKER COMPANY PROFILE

[Note: See "Part 1 Attachment" for answer choices to questions 1-4 below.]

Company Name _____ Address _____

Person Completing the Survey _____ Title _____

Phone Number _____ Fax Number _____ Email _____

1. Years in Business [ ] Years in Exporting/Trade Finance [ ]

   Years in Business with Ex-Im Bank [ ]

2. How many applications did your organization file with Ex-Im Bank in CY 2009? [ ]

3. Did you used Ex-Im Bank's medium-term or long-term program in CY 2009?
   YES ☐ NO ☐

4. If yes, which medium/long-term programs did you use in CY 2009? Check all that apply:

☐ Medium-term Insurance
☐ Medium-term Guarantee
☐ Long-term Guarantee
☐ Long-term Loan

5. Compared to 2008, my 2009 volume of exports/trade finance was:
   - o Higher
   - o Same
   - o Lower

EXPORTERS

2009 total sales volume [1.] 2009 total U.S. export sales volume [2.]

% of total export sales volume that was Ex-Im Bank supported [3.]

BANKERS

2009 total export credit extended with a term over one year [4.]

% of 2009 total export credit extended with a term greater than one year that was Ex-Im Bank supported

5.

PART 2–EXPERIENCE WITH FOREIGN EXPORT CREDIT AGENCIES (ECAs)

[Note: See "Part 2 Attachment" for the possible answer choices to the questions below.]

1. Please indicate your experience in CY 2009 in **using, receiving support from or working with other official ECAs**. Please select the appropriate answer for each ECA listed.

Canada (EDC)	Regularly	Rarely	N/A
France (Coface)	Regularly	Rarely	N/A
Germany (Hermes)	Regularly	Rarely	N/A
Italy (Sace)	Regularly	Rarely	N/A
Japan (JBIC/NEXI)	Regularly	Rarely	N/A
UK (ECGD)	Regularly	Rarely	N/A
China (China Ex-Im Bank/ Sinosure)	Regularly	Rarely	N/A
Other _____	Regularly	Rarely	
Other _____	Regularly	Rarely	

2. Please indicate your experience in CY 2009 in **facing competitors that received support from foreign official ECAs.** Please select the appropriate answer for each ECA listed.

Canada (EDC)	Regularly	Rarely	N/A
France (Coface)	Regularly	Rarely	N/A

Germany (Hermes)	Regularly	Rarely	N/A
Italy (Sace)	Regularly	Rarely	N/A
Japan (JBIC/NEXI)	Regularly	Rarely	N/A
UK (ECGD)	Regularly	Rarely	N/A
China (China Ex-Im Bank/ Sinosure)	Regularly	Rarely	N/A
Other _____	Regularly	Rarely	
Other _____	Regularly	Rarely	

PART 3 – EXPERIENCE WITH EX-IM BANK AS COMPARED TO FOREIGN ECAs

1. Why did you approach Ex-Im Bank for support in CY 2009? Please indicate the approximate frequency with which each of the following challenges or needs arise, as well as a typical region or situation that presents such a challenge/need.

[Note: When the survey is being completed on-line, if the cursor is placed over the question further explanation of that question will "pop up." The more detailed explanations are found in the "Part 2 Attachment."]

Challenge/Need	Frequency			Typical Region/Situation
Face competition From companies that Receive ECA support	Regularly	Rarely	N/A	_____
Lack of useful Private market financing	Regularly	Rarely	N/A	_____
Other _____	Regularly	Rarely		_____
Other _____	Regularly	Rarely		_____

Using the guide below, please grade Ex-Im Bank as it compares to other ECAs in the following categories based on your experience during CY 2009. If you have not had experience relating to a specific feature, please select 'N/A'.

[Note: When the survey is being completed on-line, if the cursor is placed over an element in which Ex-Im Bank is to be graded then the definition of that element will "pop up." The definitions for each of the elements are found in the "Part 3 Attachment."]

A+	= Fully competitive. Consistently equal to the (or is the sole) ECA offering the most competitive position on this element. Levels the playing field on this element with the most competitive offer from any of the major ECAs.
A	= Generally competitive. Consistently offers terms on this element equal to the average terms of the typical major ECA. Levels the playing field on this element with the typical offer from the major ECAs.
A-/B+	= In between A and B
B	= Modestly competitive. Consistently offers terms on this element equal to the least competitive of the major ECAs. Does not quite level the playing field on this element with most of the major ECAs.
B-/C+	= In between B and C
C	= Barely competitive. Consistently offers terms on this element that are a notch below those offered by any of the major ECAs. Puts exporter at financing disadvantage on this element that may, to a certain extent, be compensated for in other elements or by exporter concessions.
C-/D+	= In between C and D
D	= Uncompetitive. Consistently offers terms on this element that are far below those offered by other major ECAs. Puts exporter at financing disadvantage on this element so significantly that it is difficult to compensate for and may be enough to lose a deal.
F	= Does not provide program or element

Ex-Im Bank's Cover Policy

Scope of country risk	☐
Depth of non-sovereign risk	☐
Breadth of availability (e.g., restrictions)	☐

Interest Rate Provided by Ex-Im Bank

Loans (CIRR)	☐
Insurance cover	☐
Guarantee cover	☐

Ex-Im Bank's Risk Premia

Sovereign	☐
Non-sovereign	☐

Do you have any comments on Ex-Im's cover policy, interest rates, or risk premia, as they compare to those offered by other ECAs? For example, what core business policies and practices, if changed, would impact your competitiveness? Please be as specific as possible.

3. MAJOR PROGRAMS AND PERFORMANCE (Please rate each of the sections **only** if you have experience with the program(s) during CY 2009.)

Ex-Im Bank's Large Aircraft Program

Interest rate

% of cover

Risk capacity

Ex-Im Bank's Project Finance

Core program features

Repayment flexibilities

Services

Availability

Flexibility

Content

Ex-Im's Co-financing

Number & utility of Bilateral Agreements

Flexibility in one-off deals

Ex-Im Bank's Foreign Currency Guarantee

Availability of hard currency cover

Availability of local currency cover

Accepts exchange rate risk

Do you have any comments on Ex-Im Bank's programs for large aircraft, project finance, services, foreign currency guarantees, and co-financing as compared to those of other ECAs? What programs or performance, if changed, would impact your competitiveness? Please be as specific as possible.

Using the guide below, please indicate how each "economic philosophy and public policy topics" influences your desire to approach Ex-Im Bank and the competitive impact of them on Ex-Im Bank as compared to other official ECAs: Please indicate "N/A" if not relevant to your experience with Ex-Im Bank in 2009.

+	Positive	Philosophy, policy or program has a positive impact on Ex-Im Bank's competitiveness (moves Ex-Im Bank's competitiveness grade up one notch)
*	Neutral	Philosophy, policy or program has a neutral impact on Ex-Im Bank's competitiveness (no impact on Ex-Im Bank's competitiveness grade)
-	Negative	Philosophy, policy or program has a negative impact on Ex-Im Bank's competitiveness (moves Ex-Im Bank's competitiveness grade down one notch)

4. ECONOMIC PHILOSOPHY (Please rate each of the sections **only** if you have experience with the program in CY2009). You may use "N/A" if not relevant.

Tied aid [ ] Market windows [ ]

Do you have any comments on Ex-Im Bank's competitiveness with regard to **tied aid** or **market windows**? For example, have you seen competition supported by market windows or tied aid financing? Has either one or both of these financing vehicles had a material impact (positively or negatively) on your competitiveness during CY 2009? **Please be specific and provide as many details as possible**. You may also provide case specific data in Part 4.

[ ]

5. PUBLIC POLICIES (Please rate each of the sections **only** if you have experience with the program in CY2009). You may use "N/A" if not relevant.

Economic impact	
Foreign content	
Local Cost	
Environment	
PR 17/Shipping	

Do you have any comments on Ex-Im Bank's public policies as they compare with other ECAs concerning **economic impact, foreign content, local cost, shipping** or the **environment**? Where other ECAs do not have a comparable public policy, such as economic impact and shipping, do you have comments on the impact of these public policies on Ex-Im Bank's competitiveness? For example, have any of these public policies had a material impact (positively or negatively) on your competitiveness during CY 2009? **Please be specific and provide as many details as possible.** You may also provide case specific data in Part 4.

6. COMPETITIVENESS WEIGHTING

Please rank Ex-Im Bank's overall importance of each category from 1-4, with "1" being most important category and "4" being the least important:

Core Business Policies and Practices	[ ]
Major Programs and Performance	[ ]
Economic Philosophy	[ ]
Public Policies	[ ]

PART 4 – EX-IM BANK PROJECTS

This template is provided as an opportunity for you to provide further detail about the grades that you gave in Part 3 by detailing any positive or adverse impacts of Ex-Im Bank program features in specific transactions during CY 2009.

Ex.	Cost/Policy/ Program	ECA	Market	Project Description	Describe the competition you faced and the effect that it had on your business (eg forced to change sourcing; lost jobs; lower exports). If possible, please quantify.
	Cover	EDC	Iran	Power Plant	As a result of Ex-Im Bank's lack of cover for Iran, we were forced to source from outside the U.S. This resulted in a loss of over $100 million in U.S. export sales.
1					
2					
3					
4					
5					

BILLING CODE 6690–01–C

PART 1—ATTACHMENT

Dropdown answers:

(1) Compared to 2002, my 2003 volume of exports/trade finance was:
- ○ Higher
- ○ Same
- ○ Lower

(2) 2003 total sales volume:
- ○ <$10 million
- ○ $10–$50 million
- ○ $51–100 million
- ○ $101–$500 million
- ○ $501 million–$1 billion
- ○ >$1 billion

(3) 2003 total U.S. export sales volume:
- ○ <$10 million
- ○ $10–$50 million
- ○ $51–100 million
- ○ $101–$500 million
- ○ $501 million–$1 billion
- ○ >$1 billion

(4) % of total export sales volume that was Ex-Im Bank supported:
- ○ <10%
- ○ 10%–25%
- ○ 26%–50%
- ○ 51%–75%
- ○ >75%

(5) 2003 total export credit extended with a term over one year:
- ○ <$10 million
- ○ $10–$50 million
- ○ $51–100 million
- ○ $101–$500 million
- ○ $501 million–$1 billion
- ○ >$1 billion

(6) % of 2003 total export credit extended with a term over one year that was Ex-Im Bank supported:
- ○ <10%
- ○ 10%–25%
- ○ 26%–50%
- ○ 51%–75%
- ○ >75%

PART 2—ATTACHMENT

(1) Dropdown answers:

Experience with foreign ECAs (receiving support from or facing competitors supported by):
- ○ Frequent
- ○ Regular

○ Rare
○ None

(2) Pop-up definitions:

Part/Section	Term/phrase	Definition
Part 2, Challenge/Need	Face competition from companies that receive ECA support.	
	Find a lack of useful private market financing available.	Private market financing is either unavailable for the term or market or is so expensive as to be prohibitive.
	Need continuing U.S. government involvement.	For example, in certain transactions, a long-term presence of the U.S. government is a useful transactional security blanket, even if not financially necessary to fund the transaction.

PART 3—ATTACHMENT

(1) Grades definition:

A+	Fully competitive	Consistently equal to the (or is the sole) ECA offering the most competitive position on this element. Levels the playing field on this element with the most competitive offer from any of the major ECAs.
A	Generally competitive	Consistently offers terms on this element equal to the average terms of the typical major ECA. Levels the playing field on this element with the typical offer from the major ECAs.
A−/B+		In between A and B.
B	Modestly competitive	Consistently offers terms on this element equal to the least competitive of the major ECAs. Does not quite level the playing field on this element with most of the major ECAs.
B−/C+		In between B and C.
C	Barely competitive	Consistently offers terms on this element that are a notch below those offered by any of the major ECAs. Puts exporter at financing disadvantage on this element that may, to a certain extent, be compensated for in other elements or by exporter concessions.
C−/D+		In between C and D.
D	Uncompetitive	Consistently offers terms on this element that are far below those offered by other major ECAs. Puts exporter at financing disadvantage *on this element* so significant that it is difficult to compensate for and may be enough to lose a deal.
F	Does not offer program or element	

Pop-up definitions:

Part/Section	Term/phrase	Definition
Part 3, Core Business Policies and Practices	Ex-Im Bank's Cover Policy	Please compare the following elements of Ex-Im Bank's willingness to cover political and commercial risks in a particular country against other ECAs' cover policies.
	Scope of country risk	The number and utility of countries where cover is available.
	Depth of non-sovereign risk	The number, variety and utility of cover available for private buyers.
	Breadth of availability	The number and utility of markets where cover is not restricted by amount or term.
	Interest Rates Provided by Ex-Im Bank	Please compare the interest rates available under Ex-Im Bank programs (including those offered by the private sector lenders who benefit from Ex-Im's guarantee or insurance) to those available from other ECAs.
	Loans (CIRR)	The official fixed Commercial Interest Reference Rate offered under Ex-Im Bank's direct loan program.
	Insurance Cover	The interest rates offered by banks using Ex-Im Bank's medium-term insurance program.
	Guarantee Cover	The interest rates offered by banks using Ex-Im Bank's guarantee program.
	Ex-Im Bank's Risk Premia on:	Please compare the following types of exposure or risk fee charged by Ex-Im Bank to the fees charged by other ECAs.
	Sovereign	The exposure fee charged by Ex-Im Bank for transactions to sovereign buyers or guaranteed by sovereign entities.
	Non-sovereign	The exposure fee charged by Ex-Im Bank for transactions to public non-sovereign or private sector buyers.
Part 3, Major Programs and Performance	Ex-Im Bank's Large Aircraft Program	Please compare the following elements of Ex-Im Bank's large aircraft program to the aircraft programs of other ECAs.
	Fixed interest rate level	The interest rates available under Ex-Im Bank's aircraft program.
	Percentage of cover	The percentage of the transaction value underwritten by Ex-Im Bank.

Part/Section	Term/phrase	Definition
	Risk capacity	Ex-Im Bank's ability to take on a variety of risks in its aircraft program.
	Ex-Im Bank' Project Finance	Please compare the following elements of Ex-Im Bank's project finance program to those of other ECAs' programs.
	Core program features	Availability of coverage for pre- and post-completion risks, interest during construction, local costs support.
	Repayment flexibilities	Willingness and ability to use available OECD repayment flexibilities.
	Ex-Im Bank's Co-financing	Please compare the following elements of Ex-Im Bank's co-financing program to those of other ECAs' co-financing programs.
	# and utility of bilateral agreements	Availability and utility of co-financing framework agreements between Ex-Im Bank and another ECA.
	Flexibility in one-off deals	Availability and willingness to do one-time co-financing transactions without a bilateral framework agreement.
	Ex-Im Bank's Foreign Currency Guarantees.	Please compare Ex-Im Bank's ability to guarantee loans denominated in foreign currencies compared to that of other ECAs.
	Availability of hard currency cover	Availability of cover for freely convertible and readily available currencies of developed countries, such as the Japanese yen, the Euro, and the Swiss franc.
	Availability of local currency cover	Availability of cover for the currencies of the buyer, typically located in emerging market countries, such as the Mexican peso, South African rand, and Indian rupee.
	Pricing	The exposure fee charged by Ex-Im Bank under its foreign/local currency guarantee program.
	Ex-Im Bank's Support for Services Exports.	Please compare the following elements of Ex-Im Bank's support for services (intangible exports such as engineering and design services) to the support provided by other ECAs.
	Availability	How easy it is to attain medium- or long-term Ex-Im Bank support for services exports (on a stand-alone basis, i.e., without being bundled with exports of goods).
	Repayment terms	The repayment terms Ex-Im Bank offers for services exports.

Competitive Impact Definition

+	Positive	Philosophy, policy or program has a positive impact on Ex-Im Bank's competitiveness (moves Ex-Im Bank's competitiveness grade up one notch).
*	Neutral	Philosophy, policy or program has a positive impact on Ex-Im Bank's competitiveness (no impact on Ex-Im Bank's competitiveness grade).
−	Negative	Philosophy, policy or program has a positive impact on Ex-Im Bank's competitiveness (moves Ex-Im Bank's competitiveness grade down one notch).

Part 3, Economic Philosophy	Tied Aid	The offer of concessional credits to buyer countries in return for the purchase of U.S. goods.
	Market windows	Ex-Im Bank's response to the provision of export credits on ''market terms'' by a government ECA or government-supported financial institution.
Part 3, Public Policies	Economic Impact	The requirement to assess whether Ex-Im Bank financing of a particular export will cause substantial injury to U.S. industry or result in the production of a good that is subject to a trade measure.
	Foreign content	Inclusion of eligible content that originated outside the U.S. and the buyer's country in a U.S. supply contract.
	Local costs	Support for export-related costs that are incurred in the buyer's country.
	PR 17/Shipping	The requirement that exports support by Ex-Im Bank's medium- and long-term loans and long-term guarantees be shipped on U.S. flag vessels.
	Environment	Environmental review procedures, policies and requirements.

Competitiveness Weighting

Now that you have graded Ex-Im Bank in several areas, please weight the overall importance of each of the four broad categories listed above to Ex-Im Bank's overall competitiveness. Please ensure that the sum of your weights equals 100%.

Core Business Policies and Practices	[0–100%]
Major Programs and Performance	[0–100%]
Economic Philosophy	[0–100%]
Public Policies	[0–100%]

Sharon A. Whitt,

Agency Clearance Officer.

[FR Doc. E9–25442 Filed 10–22–09; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK OF THE U.S.

[Public Notice 127]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Submission for OMB Review and comments request.

Form Title:

Notification by Insured of Amounts Payable Under Multi-Buyer Export

Credit Insurance Policy (Standard Assignment) EIB 92–31.

Notification by Insured of Amounts Payable Under Single Buyer Export Credit Insurance Policy (Standard Assignment) EIB 92–32.

Small Business Multi-Buyer Export Credit Insurance Policy Enhanced Assignment of Policy Proceeds EIB 92–53.

Small Business Single Buyer Export Credit Insurance Policy Enhanced Assignment of Policy Proceeds EIB 99–17.

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. By neutralizing the effect of export credit insurance and guarantees offered by foreign governments and by absorbing credit risks that the private sector will not accept, Export Import Bank enables U.S. exporters to compete fairly in foreign markets. These collections of information are used by exporters to convey legal rights to their financial institution lenders to share insurance policy proceeds from Export Import Bank approved insurance claims.

Changes to Form: Notification by Insured of Amounts Payable Under Multi-Buyer Export Credit Insurance Policy (Standard Assignment) EIB 92–31

Section B 5(b)

Change

in the event Ex-Im Bank approves the Insured's claim for payment, a check will be issued payable to the order of the Insured, unless the Insured provides the name of an assignee on the ''Notice of Claim and Proof of Loss'' in which case a check will be forwarded to the assignee, made payable jointly to the order of the Insured and the assignee named on the Notice of Claim and Proof of Loss.

To

in the event Ex-Im Bank approves the Insured's claim for payment, a wire transfer will be made to an assignee designated by the Insured on the ''Notice of Claim and Proof of Loss.''

Section C 2(b)

Change

to make all claim payments relating to this assignment by check forwarded to the Assignee, made payable jointly to the order of the Insured and the Assignee.

To

to make all claim payments relating to this assignment by wire transfer to the Assignee, payable to the Assignee.

Changes to Form: Notification by Insured of Amounts Payable Under Single Buyer Export Credit Insurance Policy (Standard Assignment) EIB 92–32

Section B 3(b)

Change

in the event Ex-Im Bank approves the Insured's claim for payment, a check will be issued payable to the order of the Insured, unless the Insured provides the name of an assignee on the ''Notice of Claim and Proof of Loss''. In which case a check will be forwarded to the assignee, made payable jointly to the order of the Insured and the assigned named on the Notice of Claim and Proof of Loss.

To

in the event Ex-Im Bank approves the Insured's claim for payment, a wire transfer will be made to an assignee designated by the Insured on the ''Notice of Claim and Proof of Loss.''

Section C 2(b)

Change

to make all claim payments relating to this assignment by check forwarded to the Assignee, made payable jointly to the order of the Insured and the Assignee.

To

to make all claim payments relating to this assignment by wire transfer to the Assignee, payable to the Assignee.

Changes to Form: Small Business Multi-Buyer Export Credit Insurance Policy Enhanced Assignment of Policy Proceeds EIB 92–53

Section C.2. (c)

Change

A bill of lading identifying the Insured and the Buyer and evidencing the export of the products shipped; and

To

A bill of lading (or other shipping documents) identifying the Insured and the Buyer and evidencing the export of the products shipped; and

Section D 2

Change

If in Ex-Im Bank's sole discretion, it determines that the Insured has complied with the terms of the Policy and the Agreements of the Insured contained herein, amounts payable under the Policy will be made jointly to the Assignee and the Insured; otherwise payable under the Policy and this Agreement will be made solely to the Assignee.

To

If in Ex-Im Bank's sole discretion, it determines that the Insured has complied with the terms of the Policy and the Agreements of the Insured contained herein, amounts payable under the Policy will be made solely to the Assignee by wire transfer.

Changes to Form: Small Business Single Buyer Export Credit Insurance Policy Enhanced Assignment of Policy Proceeds EIB 99–17

Section C.2. (c)

Change

A bill of lading identifying the Insured and the Buyer and evidencing the export of the products shipped; and

To

A bill of lading (or other shipping documents) identifying the Insured and the Buyer and evidencing the export of the products shipped: and

Section D 2

Change

If in Ex-Im Bank's sole discretion, it determines that the Insured has complied with the terms of the Policy and the Agreements of the Insured contained herein, amounts payable under the Policy will be made jointly to the Assignee and the Insured; otherwise payable under the Policy and this Agreement will be made solely to the Assignee.

To

If in Ex-Im Bank's sole discretion, it determines that the Insured has complied with the terms of the Policy and the Agreements of the Insured contained herein, amounts payable under the Policy will be made solely to the Assignee by wire transfer.

Section F

Add a new sub-section 4 as follows:

4. that represents exclusively invoices for services, unless prior approval is obtained from Ex-Im Bank.

Sections G.3, G.4, G.5, G.6 and G.8

Change

The numbering sequence of these sections

To

Sections G.4, G.5, G.6, G.7, G8

And insert as a new Section G.3

To

G.3. Ex-Im Bank has the right to amend or cancel this Agreement upon written notice to both the Assignee and the Insured. Such notice shall be effective seven (7) business days after the date of the notice and apply to shipments after the effective date of the notice. Neither the Assignee nor the Insured may amend or cancel this Agreement without the written consent of all parties to this Agreement, including Ex-Im Bank.

DATES: Comments should be received on or before December 22, 2009 to be assured of consideration.

ADDRESSES: Comments may be submitted through *http://www.regulations.gov* or mailed to: Michele Kuester, Export Import Bank of the United States, 811 Vermont Ave., NW., Washington, DC 20571.

SUPPLEMENTARY INFORMATION:

Titles and Form Numbers:

Notification by Insured of Amounts Payable Under Multi-Buyer Export Credit Insurance Policy (Standard Assignment) EIB 92–31.

Notification by Insured of Amounts Payable Under Single Buyer Export Credit Insurance Policy (Standard Assignment) EIB 92–32.

Small Business Multi-Buyer Export Credit Insurance Policy Enhanced Assignment of Policy Proceeds EIB 92–53.

Small Business Single Buyer Export Credit Insurance Policy Enhanced Assignment of Policy Proceeds EIB 99–17.

OMB Number: 3048–0020.

Type of Review: Regular.

Need and Use: The information collected will be used to make a determination of eligibility under the Ex-Im Bank's short-term insurance program.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 400.

Estimated Time per Respondent: 1 hour.

Government Annual Burden Hours: 400.

Frequency of Reporting or Use: Annual for an enhanced assignment. Once for the life of a policy for the standard Assignment.

Sharon A. Whitt,

Agency Clearance Officer.

[FR Doc. E9–25543 Filed 10–22–09; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection Being Submitted to the Office of Management and Budget for Review and Approval, Comments Requested

10/20/2009.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments on November 23, 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, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at (202) 395–5167, or via the Internet at Nicholas_A._Fraser@omb.eop.gov and to Cathy Williams, Federal Communications Commission (FCC), 445 12th Street, SW, Room 1–C823, Washington, DC 20554. To submit your comments by e–mail send then to: PRA@fcc.gov and to Cathy.Williams@fcc.gov. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to web page: http://www.reginfo.gov/public/do/PRAMain, (2) look for the section of the web page called ''Currently Under Review'', (3) click on the downward–pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, and (6) when the FCC list appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection send an e–mail to PRA@fcc.gov or contact Cathy Williams (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–1061.

Title: Earth Stations on Board Vessels (ESV).

Form No.: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for–profit entities.

Number of Respondents and Responses: 15 respondents; 15 responses.

Estimated Time per Response: Estimated time is different for each response – the response with the shortest duration takes an estimated 0.25 hours to complete and the response with the longest duration takes an estimated 24 hours to complete.

Frequency of Response: Recordkeeping requirement; On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The Commission has statutory approval for the information collection requirements under Sections 4(i), 7(a), 303(c), 303(f), 303(g) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 303(c), 303(f), 303(g) and 303(r).

Total Annual Burden: 264 hours.

Total Annual Cost: $149,925.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality pertaining to the information collection requirements in this collection.

Needs and Uses: On July 31, 2009, the Federal Communications Commission (''Commission'') released an Order on Reconsideration titled, ''In the Matter of the Procedures to Govern the Use of Satellite Earth Stations on Board Vessels in the 5925–6425 MHz/ 3700–4200 MHz Bands and 14.0–14.5 GHz/11.7–12.2 GHz Bands'' (FCC 09–63, IB Docket No. 02–10 (''ESV Reconsideration Order''). In the ESV Reconsideration Order, the Commission resolved various concerns raised regarding the operational

restrictions placed on ESVs that are designed to protect the fixed–satellite service (FSS), operating in the C–band and Ku–band, and the terrestrially–based fixed service (FS), operating in the C–band, from harmful interference. The Commission adopted rule changes that should provide ESV operators with greater operational flexibility while continuing to ensure that the other services in these bands are protected from harmful interference.

The PRA information collection requirements contained in the ESV Reconsideration Order are as follows:

1. Any ESV applicant that uses transmitters with off–axis EIRP densities lower than or equal to the off–axis EIRP limits must: (1) file three tables showing the off–axis EIRP level of the proposed earth station antenna in the direction of the plane of the GSO; the co–polarized EIRP in the elevation plane, that is, the plane perpendicular to the plane of the GSO; and cross polarized EIRP. In each table, the EIRP level must be provided at increments of 0.1° for angles between 0° and 10° off–axis, and at increments of 5° for angles between 10° and 180° off–axis or; (2) a certification, in Schedule B, that the ESV antenna conforms to the gain pattern criteria of § 25.209(a) and (b), that, combined with the maximum input power density calculated from the EIRP density less the antenna gain, which is entered in Schedule B, demonstrates that the off–axis EIRP spectral density envelope will be met under the assumption that the antenna is pointed at the target satellite.

2. An ESV applicant proposing to implement a transmitter that will maintain a pointing error of less than or equal to 0.2° must provide a certification from the equipment manufacturer stating that the antenna tracking system will maintain a pointing error of less than or equal to 0.2° between the orbital location of the target satellite and the axis of the main lobe of the ESV antenna and that the antenna tracking system is capable of ceasing emissions within 100 milliseconds if the angle between the orbital location of the target satellite and the axis of the main lobe of the ESV antenna exceeds 0.5°.

3. An ESV applicant proposing to implement a transmitter with an antenna pointing error of greater than 0.2 degrees must: (A) declare, in its application, a maximum antenna pointing error and demonstrate that the maximum antenna pointing error can be achieved without exceeding the off–axis EIRP spectral–density limits in paragraph (a)(1)(i) of this section; and (B) demonstrate that the ESV transmitter can detect if the transmitter exceeds the declared maximum antenna pointing error and can cease transmission within 100 milliseconds if the angle between the orbital location of the target satellite and the axis of the main lobe of the ESV antenna exceeds the declared maximum antenna pointing error, and will not resume transmissions until the angle between the orbital location of the target satellite and the axis of the main lobe of the ESV antenna is less than or equal to the declared maximum antenna pointing error.

4. An ESV applicant proposing to implement a transmitter that exceeds the off–axis EIRP spectral–density limits shall provide the following certifications and demonstration as exhibits to its earth station application: (i) a statement from the target satellite operator certifying that the proposed operation of the ESV has the potential to create harmful interference to satellite networks adjacent to the target satellite(s) that may be unacceptable; (ii) a statement from the target satellite operator certifying that the power–density levels that the ESV applicant provided to the target satellite operator are consistent with the existing coordination agreements between its satellite(s) and the adjacent satellite systems within 6° of orbital separation from its satellite(s); (iii) a statement from the target satellite operator certifying that it will include the power–density levels of the ESV applicant in all future coordination agreements; (iv) A demonstration from the ESV operator that the ESV system is capable of detecting and automatically ceasing emissions within 100 milliseconds when the transmitter exceeds the off–axis EIRP spectral–densities supplied to the target satellite operator; and (v) a certification from the ESV operator that the ESV system complies with the power limits in Section 25.204(h).

5. The point of contact information referred to in paragraph (a)(3) and, if applicable, paragraph (a)(6), of Sections 25.221 and 25.222, must be included in the application.

6. Section 25.132(b)(3) requires applicants seeking authority to use an antenna that does not meet the standards set forth in §§ 25.209(a) and (b) of this part, pursuant to the procedure set forth in § 25.220, § 25.221, § 25.222, or § 25.223(c) of this part, are required to submit a copy of the manufacturer's range test plots of the antenna gain patterns specified in paragraph (b)(1) of this section.

7. Section 25.221(a)(4) requires that for each ESV transmitter, a record of the ship location (i.e., latitude/longitude), transmit frequency, channel bandwidth and satellite used shall be time annotated and maintained for a period of not less than 1 year. Records will be recorded at time intervals no greater than every 20 minutes while the ESV is transmitting. The ESV operator will make this data available upon request to a coordinator, fixed system operator, fixed–satellite system operator, or the Commission within 24 hours of the request.

8. Section 25.221(a)(5) requires that ESV operators communicating with vessels of foreign registry must maintain detailed information on each vessel's country of registry and a point of contact for the relevant administration responsible for licensing ESVs.

9. Section 25.221(a)(11) requires ESVs operating within 200 km from the baseline of the United States, or within 200 km from a U.S.–licensed fixed service offshore installation, shall complete coordination with potentially affected U.S.–licensed fixed service operators prior to operation. The coordination method and the interference criteria objective shall be determined by the frequency coordinator. The details of the coordination shall be maintained and available at the frequency coordinator, and shall be filed with the Commission to be placed on Public Notice. Operation of each individual ESV may commence immediately after the Public Notice is released that identifies the notification sent to the Commission. Continuance of operation of that ESV for the duration of the coordination term shall be dependent upon successful completion of the normal public notice process. If, prior to the end of the 30–day comment period of the Public Notice, any objections are received from U.S.–licensed fixed service operators that have been excluded from coordination, the ESV licensee shall immediately cease operation of that particular station on frequencies used by the affected U.S.–licensed fixed service station until the coordination dispute is resolved and the ESV licensee informs the Commission of the resolution.

10. Section 25.221(b)(3) states that there shall be an exhibit included with the application describing the geographic area(s) in which the ESVs will operate.

11. Section 25.221(b)(5) requires ESVs that exceed the radiation guidelines of Section 1.1310 Radiofrequency radiation exposure limits must provide, with their environmental assessment, a plan for mitigation of radiation exposure to the extent required to meet those guidelines.

12. Section 25.222(a)(4) states that for each ESV transmitter, a record of the ship location (i.e., latitude/longitude),

transmit frequency, channel bandwidth and satellite used shall be time annotated and maintained for a period of not less than 1 year. Records will be recorded at time intervals no greater than every 20 minutes while the ESV is transmitting. The ESV operator will make this data available upon request to a coordinator, fixed system operator, fixed–satellite system operator, NTIA, or the Commission within 24 hours of the request.

13. Section 25.222(a)(5) requires ESV operators communicating with vessels of foreign registry must maintain detailed information on each vessel's country of registry and a point of contact for the relevant administration responsible for licensing ESVs.

14. Section 25.222(b)(3) states there shall be an exhibit included with the application describing the geographic area(s) in which the ESVs will operate.

15. Section 25.222(b)(5) requires that ESVs that exceed the radiation guidelines of Section 1.1310 Radiofrequency radiation exposure limits must provide, with their environmental assessment, a plan for mitigation of radiation exposure to the extent required to meet those guidelines.

The information collection requirements accounted for in this collection are necessary to determine the technical and legal qualifications of applicants or licensees to operate a station, transfer or assign a license, and to determine whether the authorization is in the public interest, convenience and necessity. Without such information, the Commission could not determine whether to permit respondents to provide telecommunication services in the U.S. Therefore, the Commission would be unable to fulfill its statutory responsibilities in accordance with the Communications Act of 1934, as amended, and the obligations imposed on parties to the World Trade Organization (WTO) Basic Telecom Agreement.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E9–25526 Filed 10–22–09; 8:45 am]

BILLING CODE 6712–01–S

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–237; DA 09–2226]

GSA Approves Renewal of North American Numbering Council Charter Through September 25, 2011

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On October 16, 2009, the Commission released a public notice announcing GSA's approval of the renewal of the North American Numbering Council charter through September 25, 2011. The intended effect of this action is to make the public aware of the renewal of the North American Numbering Council charter.

DATES: Renewed through September 25, 2011.

ADDRESSES: Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, The Portals II, 445 12th Street, SW., Suite 5–C162, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Deborah Blue, Special Assistant to the Designated Federal Officer (DFO) at (202) 418–1466 or *Deborah.Blue@fcc.gov.* The fax number is: (202) 418–1413. The TTY number is: (202) 418–0484.

SUPPLEMENTARY INFORMATION: Released October 16, 2009.

The General Services Administration (GSA) has renewed the charter of the North American Numbering Council (NANC or Council) through September 25, 2011. The Council will continue to advise the Federal Communications Commission (Commission) on rapidly evolving and competitively significant numbering issues facing the telecommunications industry.

In October 1995, the Commission established the NANC, a Federal advisory committee created pursuant to the Federal Advisory Committee Act, 5 U.S.C., App. 2 (1988), to advise the Commission on issues related to North American Numbering Plan (NANP) administration in the United States. The original charter of the Council was effective on October 5, 1995, establishing an initial two-year term. Amended charters were filed on October 5, 1997, October 5, 1999, October 5, 2001, October 5, 2003, September 26, 2005, and September 27, 2007, each renewing the term of the charter for an additional two years.

Since the last charter renewal, the Council has provided the Commission with critically important recommendations regarding number administration, such as the recommendation regarding the assignment of geographic numbers from the NANP and a central database to support interoperability for Internet-based relay services. In addition, the Council reviewed and recommended technical requirements for a request for proposals associated with a new North American Numbering Plan Administrator (NANPA) contract. The Council also provided detailed evaluations of the current NANPA, the Pooling Administrator (PA) and the Billing and Collection (B&C) Agent. The Council will continue to evaluate the performances of the NANPA, the PA and the B&C Agent on an annual basis. Moreover, the Council is presently considering and formulating recommendations on other important numbering-related issues that will require work beyond the term of the present charter.

The value of this Federal advisory committee to the telecommunications industry and to the American public cannot be overstated. Numbers are the means by which consumers gain access to, and reap the benefits of, the public switched telephone network. The Council's recommendations to the Commission will facilitate fair and efficient number administration in the United States, and will ensure that numbering resources are available to all telecommunications service providers on a fair and equitable basis, consistent with the requirements of the Telecommunications Act of 1996.

Marilyn Jones,

Attorney, Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission.

[FR Doc. E9–25564 Filed 10–22–09; 8:45 am]

BILLING CODE 6712–01–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 November 9, 2009.

A. Federal Reserve Bank of Kansas City (Todd Offenbacker, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. Philip Eugene Jossi, and Marian Joanne Hardin, both of Kearney, Nebraska; James Andrew Bodyfield, Ericson, Nebraska; and Keith Weldon Carlson, Lincoln, Nebraska; to acquire voting shares of Riverdale Bancshares, Inc., and thereby indirectly acquire voting shares of State Bank of Riverdale, both in Riverdale, Nebraska.

Board of Governors of the Federal Reserve System, October 20, 2009.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E9–25520 Filed 10–22–09; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Toxicology Program (NTP); Office of Liaison, Policy and Review; Meeting of the NTP Board of Scientific Counselors

AGENCY: National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health, HHS.

ACTION: Meeting announcement and request for comments.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of a meeting of the NTP Board of Scientific Counselors (BSC). The BSC is a Federally chartered, external advisory group composed of scientists from the public and private sectors that provides primary scientific oversight to the NTP Director and evaluates the scientific merit of the NTP's intramural and collaborative programs.

DATES: The BSC meeting will be held on December 9–10, 2009. The deadline for submission of written comments is November 25, 2009, and for pre-registration to attend the meeting, including registering to present oral comments, is December 2, 2009. Persons needing interpreting services in order to attend should contact 301–402–8180 (voice) or 301–435–1908 (TTY). For other accommodations while on the NIEHS campus, contact 919–541–2475 or e-mail *niehsoeeo@niehs.nih.gov.* Requests should be made at least 7 business days in advance of the event.

ADDRESSES: The BSC meeting will be held in the Rodbell Auditorium, Rall Building at the NIEHS, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709. Public comments on all agenda topics and any other correspondence should be submitted to Dr. Barbara Shane, Executive Secretary for the BSC, NTP Office of Liaison, Policy and Review, NIEHS, P.O. Box 12233, K2–03, Research Triangle Park, NC 27709; telephone: 919–541–4253; fax: 919–541–0295; e-mail: *shane@niehs.nih.gov.* Courier address: NIEHS, 530 Davis Drive, Room K2138, Morrisville, NC 27560.

FOR FURTHER INFORMATION CONTACT: Dr. Barbara Shane (telephone: 919–541–4253 or e-mail: *shane@niehs.nih.gov*).

SUPPLEMENTARY INFORMATION:

Preliminary Agenda Topics and Availability of Meeting Materials

- Report of the NTP Director.
- NTP Update.
- NTP Testing Program: Nominations and proposed research projects on Butterbur, Evening primrose oil, Hydroquinone, Silica flour, and Valerian extracts and oil.
- Review of the NTP Host Susceptibility Program.
- NTP's Use of Contracts in the Testing Program.
- Concept Contract Review for Chemistry Services to the NTP.
- Concept Contract Review for NTP Reproductive and Developmental Toxicology and Perinatal Carcinogenicity Studies.
- NTP Evaluation Process.
- Update from the Center for the Evaluation of Risks to Human Reproduction.
- NTP's Dietary Supplements and Herbal Medicines Initiative.

The preliminary agenda, roster of BSC members and *ad hoc* reviewers, background materials for agenda topics, public comments, and any additional information, when available, will be posted on the BSC meeting Web site (*http://ntp.niehs.nih.gov/go/165*) or may be requested in hardcopy from the Executive Secretary for the BSC (*see* **ADDRESSES** above). Updates to the agenda will also be posted to this site. Following the meeting, summary minutes will be prepared and made available on the BSC meeting Web site.

NTP Testing Program: Nominations and Proposed Research Projects

The NTP actively seeks to identify and select for study chemicals and other substances for which sufficient information is not available to adequately evaluate potential human health hazards. The NTP accomplishes this goal through a formal, open nomination and selection process. Substances considered appropriate for study generally fall into two broad, yet overlapping categories: (1) Substances judged to have high concern as possible public health hazards based on the extent of human exposure and/or suspicion of toxicity and (2) substances for which toxicological data gaps exist and additional studies would aid in assessing potential human health risks, *e.g.,* by facilitating cross-species extrapolation or evaluating dose-response relationships. Nominations are subject to a multi-step, formal process of review before selections for testing are made and toxicological studies are designed and implemented. The nomination review and selection process is accomplished through the participation of representatives from the NIEHS, other Federal agencies represented on the Interagency Committee for Chemical Evaluation and Coordination (ICCEC)—the NTP Federal interagency review committee for NTP study nominations, the BSC, the NTP Executive Committee—the NTP Federal interagency policy body, and the public. The nomination review and selection process is described in further detail on the NTP Web site (*http://ntp.niehs.nih.gov/,* select ''Nominations to the Testing Program'').

Table 1 lists new nominations to be reviewed at the BSC meeting. Background documents for each nomination are available on the NTP Web site *http://ntp.niehs.nih.gov/go/nom.* The NTP invites interested parties to submit written comments, provide supplementary information, or present oral comments at the BSC meeting on the nominated substances and preliminary study recommendations (*see* ''Request for Comments'' below). The NTP welcomes toxicology study information from completed, ongoing, or anticipated studies, as well as information on current U.S. production levels, use or consumption patterns, human exposure, environmental occurrence, or public health concerns for any of the nominated substances. The NTP is interested in identifying appropriate animal and non-animal experimental models for mechanistic-based research, including genetically modified rodents and high-throughput *in vitro* test methods, and as such, solicits comments regarding the use of specific *in vivo* and *in vitro* experimental approaches to address questions relevant to the nominated substances and issues under consideration. Although the deadline

for submission of written comments to be considered at the BSC meeting is November 25, 2009 (*see* ''Request for Comments'' below), the NTP welcomes comments or additional information on these study nominations at any time.

TABLE 1—TESTING RECOMMENDATIONS FOR SUBSTANCES NOMINATED TO THE NTP FOR TOXICOLOGICAL STUDIES

Substance [CAS No.]	Nomination source	Nomination rationale	Preliminary study recommendations
Butterbur (*Petasites hybridus*) extract [90082–63–6].	National Institute of Environmental Health Sciences[1].	Use as a dietary supplement; lack of toxicological data; suspicion of toxicity based on pharmacological activity of constituents; potential presence of toxic pyrrolizidine alkaloids.	Comprehensive toxicological characterization.
Evening primrose oil (*Oenothera biennis* L.) extract [90028–66–3].	NIEHS	Use as a dietary supplement, particularly for immune conditions; lack of adequate toxicological data.	—Initial toxicological characterization. —Immunotoxicity studies. —Reproductive toxicity studies.
Hydroquinone [123–31–9]	U.S. Food and Drug Administration.	Use in drugs and cosmetics; evidence of carcinogenicity from oral exposures in prior NTP studies; insufficient toxicological data for regulatory hazard determination.	—Dermal toxicity and carcinogenicity studies. —Reproductive toxicity studies.
Silica flour [14808–60–7]	Private Individual	Use in industrial and consumer products; inhalation exposures associated with autoimmune disease; lack of toxicity data for oral and dermal exposures; insufficient data to evaluate dose-response for renal and autoimmune effects by any route of exposure.	—Initial toxicological characterization via oral and dermal routes of administration. —Immunotoxicity studies.
Valerian (*Valeriana officinalis* L.) root extract [8057–49–6]; Valerian oil [8008–88–6].	NIEHS	Use as a dietary supplement; lack of toxicological data; concern for adverse developmental and reproductive effects.	Comprehensive toxicological characterization.

[1] National Institute of Environmental Health Sciences (NIEHS).

[2] The terms ''initial'' and ''comprehensive toxicological characterization'' in this table refer to the approximate scope of a research program to address toxicological data needs. The types of toxicological studies that would be considered by NTP staff during the conceptualization and design of a research program are:

- Initial toxicological characterization: biomolecular screening, *in vitro* mechanistic, *in vitro* and *in vivo* genotoxicity, absorption, disposition, metabolism, and elimination, and short-term repeat dose (2–4 weeks) *in vivo* studies.
- Comprehensive toxicological characterization: all of the aforementioned plus subchronic toxicity (13–26 weeks), chronic toxicity (1–2 years), carcinogenicity in conventional or genetically modified rodent models, organ systems toxicity (immunotoxicity, reproductive and developmental toxicity, neurotoxicity), *in vivo* mechanistic, toxicokinetics, and other special studies as appropriate (*e.g.,* chemistry, toxicogenomics, phototoxicity).

To facilitate review of proposed research projects by the BSC and the public, NTP staff developed a draft research concept document for each nomination recommended for study. A research concept is a brief document outlining the nomination or study rationale, and the significance, study approach, and expected outcome of a proposed research program tailored for each nomination. The purpose of these research concepts is to outline the general elements of a program of study that would address the specific issues that prompted the nomination and the preliminary study recommendations. A research concept may also encompass larger public health issues or topics in toxicology that could be appropriately addressed through studies on the nominated substance(s). Draft research concepts for the new nominations listed in Table 1 will be available on the BSC meeting page (*http://ntp.niehs.nih.gov/go/165*) by October 26, 2009.

Attendance and Registration

The meeting is scheduled for December 9–10, 2009, beginning at 8:30 a.m. on each day and continuing to approximately 5 p.m. on December 9 and on December 10 until adjournment. The meeting is open to the public with attendance limited only by the space available. Individuals who plan to attend are encouraged to register online at the BSC meeting Web site (*http://ntp.niehs.nih.gov/go/165*) by December 2, 2009, to facilitate planning for the meeting. The NTP is making plans to videocast the meeting through the Internet at *http://www.niehs.nih.gov/news/video/live.*

Request for Comments

Written comments submitted in response to this notice should be received by November 25, 2009. Comments will be posted on the BSC meeting Web site and persons submitting them will be identified by their name and affiliation and/or sponsoring organization, if applicable. Persons submitting written comments should include their name, affiliation (if applicable), phone, e-mail, and sponsoring organization (if any) with the document.

Time will be allotted during the meeting for the public to present oral comments to the BSC on the agenda topics. Each organization is allowed one time slot per agenda topic. At least 7 minutes will be allotted to each speaker, and if time permits, may be extended to 10 minutes at the discretion of the BSC chair. Persons wishing to present oral comments are encouraged to pre-register on the NTP meeting Web site. Registration for oral comments will also be available on-site, although time

allowed for presentation by on-site registrants may be less than that for pre-registered speakers and will be determined by the number of persons who register at the meeting.

Persons registering to make oral comments are asked, if possible, to send a copy of their statement to the Executive Secretary for the BSC (*see* **ADDRESSES** above) by December 2, 2009, to enable review by the BSC prior to the meeting. Written statements can supplement and may expand the oral presentation. If registering on-site and reading from written text, please bring 40 copies of the statement for distribution to the BSC and NTP staff and to supplement the record.

Background Information on the NTP Board of Scientific Counselors

The BSC is a technical advisory body comprised of scientists from the public and private sectors that provides primary scientific oversight to the NTP. Specifically, the BSC advises the NTP on matters of scientific program content, both present and future, and conducts periodic review of the program for the purpose of determining and advising on the scientific merit of its activities and their overall scientific quality. Its members are selected from recognized authorities knowledgeable in fields such as toxicology, pharmacology, pathology, biochemistry, epidemiology, risk assessment, carcinogenesis, mutagenesis, molecular biology, behavioral toxicology, neurotoxicology, immunotoxicology, reproductive toxicology or teratology, and biostatistics. Members serve overlapping terms of up to four years. BSC meetings are held annually or biannually.

Dated: October 16, 2009.

John R. Bucher,

Associate Director, National Toxicology Program.

[FR Doc. E9–25587 Filed 10–22–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–R–284 and CMS–10190]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension without change of a currently approved collection; *Title of Information Collection:* Medicaid Statistical Information System; *Use:* State data are reported by the Federally mandated electronic process, known as (MSIS) Medical Statistical Information System. These data are the basis of actuarial forecasts for Medicaid service utilization and costs; of analysis and cost savings estimates required for legislative initiatives relating to Medicaid and for responding to requests for information from CMS components, the Department, Congress and other customers; *Form Number:* CMS–R–284 (OMB#: 0938–0345); *Frequency:* Reporting—Quarterly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 51; *Total Annual Responses:* 204; *Total Annual Hours:* 2,040. (For policy questions regarding this collection contact Denise Franz 410–786–6117. For all other issues call 410–786–1326.)

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* State Plan Preprints to Implement Sections 6083, 6036, 6041, 6042, 6043 and 6044 of the Deficit Reduction Act (DRA) of 1995; *Use:* These preprints allow States the opportunity and flexibility to request changes in benefit packages, cost sharing, non-emergency medical transportation services, etc.; *Form Number:* CMS–10190 (OMB#: 0938–0993); *Frequency:* Reporting—Once and Occasionally; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 56; *Total Annual Responses:* 16; *Total Annual Hours:* 699. (For policy questions regarding this collection contact Fran Crystal at 410–786–1195. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web Site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995*, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB desk officer at the address below, no later than 5 p.m. on November 23, 2009.

OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–6974, E-mail: *OIRA_submission@omb.eop.gov*.

Dated: October 16, 2009.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E9–25573 Filed 10–22–09; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–R–64]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to

minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of the currently approved collection; *Title of Information Collection:* Indirect Medical Education (IME) and Supporting Regulations at 42 CFR 412.105; Direct Graduate Medical Education (GME) and Supporting Regulations at 42 CFR 413.75 through 413.83; *Use:* The information collected on interns and residents (IRs) is used by the Medicare Part A fiscal intermediaries (FI) and Part A Medicare Administrative Contractors (MAC) to verify the number of IRs used in the calculation of Medicare program payments for indirect medical education (IME) as well as direct graduate medical education (GME). The IR data collected from the hospitals is processed through computers at FIs/MACs to identify any duplicated time based upon the accumulated time of each individual that worked at one or more hospitals. The identification of duplicate IRs is necessary to ensure that no IR is counted more than once.

The FIs/MACs use the information collected on IRs to help ensure that all program payments for IME and GME are based upon an accurate number of FTE–IRs, determined in accordance with Medicare regulations. The IR data submitted by the hospitals are used by the FIs/MACs during their audits of the providers' cost reports. The audit procedures help assure that the information reported was correct, and that IRs who should not have been reported by the hospitals (or portions of the IRs' time) are not included in the FTE count. The FIs/MACs also use reports of duplicate IRs to prevent improper payment for IME and GME. *Form Number:* CMS–R–64 (OMB#: 0938–0456); *Frequency:* Reporting—Yearly; *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 1,190; *Total Annual Responses:* 1,190; *Total Annual Hours:* 2,380. (For policy questions regarding this collection contact Milton Jacobson at 410–786–7553. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site at *http://www.cms.hhs.gov/PaperworkReductionActof1995*, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by *December 22, 2009:*

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: October 16, 2009.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E9–25572 Filed 10–22–09; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0480]

Agency Information Collection Activities; Proposed Collection; Comment Request; Investigational Device Exemptions Reports and Records

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 Investigational Device Exemptions Reports and Records.

DATES: Submit written or electronic comments on the collection of information by December 22, 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: Denver Presley, Jr., Office of Information Management (HFA–710), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–796–3793.

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 comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Investigational Device Exemptions Reports and Records—21 CFR Part 812 (OMB Control Number 0910–0078)—Extension

Section 520(g) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360j(g)) establishes the statutory authority to collect information

regarding investigational devices, and establishes rules under which new medical devices may be tested using human subjects in a clinical setting. The Food and Drug Administration Modernization Act of 1997 added section 520(g)(6) to the act and permitted changes to be made to either the investigational device or to the clinical protocol without FDA approval of an investigational device exemption (IDE) supplement. An IDE allows a device, which would otherwise be subject to provisions of the act, such as premarket notification or premarket approval, to be used in investigations involving human subjects in which the safety and effectiveness of the device is being studied. The purpose of part 812 (21 CFR part 812) is to encourage, to the extent consistent with the protection of public health and safety and with ethical standards, the discovery and development of useful devices intended for human use. The IDE regulation is designed to encourage the development of useful medical devices, and allow investigators the maximum freedom possible, without jeopardizing the health and safety of the public or violating ethical standards.

To do this, the regulation provides for different levels of regulatory control depending on the level of potential risk the investigational device presents to human subjects. Investigations of significant risk devices, ones that present a potential for serious harm to the rights, safety or welfare of human subjects, are subject to the full requirements of the IDE regulation. Nonsignificant risk device investigations, ones that do not present a potential for serious harm, are subject to the reduced burden of the abbreviated requirements.

The regulation also includes provisions for treatment IDEs. The purpose of these provisions are to facilitate the availability, as early in the device development process as possible, of promising new devices to patients with life-threatening or serious conditions for which no comparable or satisfactory alternative therapy is available. Section 812.10 of the act, permits the sponsor of the IDE to request a waiver to all of the requirements of part 812. This information is needed for FDA to determine if waiver of the requirements of part 812 will impact the public's health and safety.

Sections 812.20, 812.25 and 812.27 of the act consist of the information necessary to file an IDE application with FDA. The submission of an IDE application to FDA is required only for significant risk device investigations. Section 812.20 lists the data requirements for the original IDE application; Section 812.25 lists the contents of the investigational plan; and Section 812.27 lists the data relating to previous investigations or testing. The information in this original IDE application is evaluated by the Center for Devices and Radiological Health to determine whether the proposed investigation will reasonably protect the public health and safety, and for FDA to make a determination to approve the IDE.

Upon approval of an IDE application by the FDA, a sponsor must submit certain requests and reports. Under Section 812.35, a sponsor who wishes to make a change in the investigation which affects the scientific soundness of the study or the rights, safety, or welfare of the subjects, is required to submit a request for the change to FDA. Section 812.150 requires a sponsor to submit reports to FDA. These requests and reports are submitted to FDA as supplemental applications. This information is needed for FDA to assure protection of human subjects and to allow review of the study's progress.

Section 812.36(c) identifies the information necessary to file a treatment IDE application. FDA uses this information to determine if wider distribution of the device is in the interests of the public health. Section 812.36(f) identifies the reports required to allow FDA to monitor the size and scope of the treatment IDE, to assess the sponsor's due diligence in obtaining marketing clearance of the device and to ensure the integrity of the controlled clinical trials.

Section 812.140 lists the recordkeeping requirements for investigators and sponsors. FDA requires this information for tracking and oversight purposes. Investigators are required to maintain records, including correspondence and reports concerning the study, records of receipt, use or disposition of devices, records of each subject's case history and exposure to the device, informed consent documentation, study protocol and documentation of any deviation from the protocol. Sponsors are required to maintain records including correspondence and reports concerning the study, records of shipment and disposition, signed investigator agreements, adverse device effects information and for a nonsignificant risk device study, an explanation of the nonsignificant risk determination, records of device name and intended use, study objectives, investigator information, investigational review board information, and statement on the extent that good manufacturing practices will be followed.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
812.10	1	1	1	1	1
812.20, 812.25, and 812.27	600	0.5	300	80	24,000
812.35 and 812.150 (reports for significant risk studies)	600	7.8	4,700	6	28,200
812.150 (reports for non-significant risk studies)	600	0.017	10	6	60
812.36(c)	1	1	1	120	120
812.36(f)	1	2	2	20	40
Total					52,421

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency of Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
812.140 Original	600	0.5	300	10	3,000
812.140 Supplemental	600	7	4,200	1	4,200
812.140 Non-significant	600	1	600	6	3,600
Total					10,800

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimate of the burden is based on the number of IDEs received in the last 3 years.

Dated: October 16, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–25539 Filed 10–22–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0486]

Agency Information Collection Activities; Proposed Collection; Comment Request; Guidance for Industry, FDA, and Foreign Governments: Fiscal Year 2010 Medical Device User Fee Small Business Qualification and Certification

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 FDA Forms 3602 and FDA Form 3602A which will allow domestic and foreign applicants to certify that they qualify as a ''small business'' and pay certain medical device user fees at reduced rates.

DATES: Submit written or electronic comments on the collection of information by December 22, 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: Denver Presley, Jr., Office of Information Management (HFA–710), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–796–3793.

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 comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practicalutility; (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.

Guidance for Industry, FDA, and Foreign Governments: FY 2010 Medical Device User Fee Small Business Qualification and Certification FD&C Act Section 738 (OMB Control Number 0910–0508)—Extension

Section 101 of the Medical Device User Fee and Modernization Act (MDUFMA) amends the Federal Food, Drug, and Cosmetic Act (the act) to provide for user fees for certain medical device applications. FDA published a **Federal Register** notice on August 3, 2009 (74 FR 38444), announcing fees for fiscal year (FY) 2010. To avoid harming small businesses, MDUFMA provides for reduced or waived fees for applicants who qualify as a ''small business.'' This means there are two levels of fees, a standard fee, and a reduced or waived small business fee.

FDA From 3602— For Domestic Small Business Applicants

For FY 2010, you can qualify for a small business fee discount under MDUFMA if you reported gross receipts or sales of no more than $100 million on your Federal income tax return for the most recent tax year. If you have any affiliates, partners, or parent firms, you must add their gross receipts or sales to yours and the total must be no more than $100 million. If your gross receipts or sales are no more than $30 million, including all of your affiliates, partners, and parent firms, you will also qualify for a waiver of the fee for your first (ever) premarket application, (product development protocol, biologics licensing application, or Premarket Report). An applicant must pay the full standard fee unless it provides evidence demonstrating to FDA that it meets the ''small business'' criteria. The evidence required by MDUFMA is a copy of the most recent Federal income tax return of the applicant, and any affiliate, partner, or parent firm. FDA will review these

materials and decide whether an applicant is a ''small business'' within the meaning of MDUFMA.

FDA Form 3602A— For Foreign Small Business Applicants

The 2007 Amendments provide an alternative way for a foreign business to qualify as a small business eligible to pay a significantly-lower fee when a medical device user fee must be paid.

Before passage of the 2007 Amendments, the only way a business could qualify as a small business was to submit a Federal (U.S.) income tax return showing its gross receipts or sales that did not exceed a statutory threshold, currently, $100 million. If a business could not provide a Federal income tax return, it did not qualify as a small business and had to pay the standard (full) fee. Because many foreign businesses have not, and cannot, file a Federal (U.S.) income tax return, this requirement has effectively prevented those businesses from qualifying for the small business fee rates. Thus, foreign governments, including the European Union, have objected.

In lieu of a Federal income tax return, the 2007 Amendments will allow a foreign business to qualify as a small business by submitting a certification from its national taxing authority, the foreign equivalent of our Internal Revenue Service. This certification, referred to as a ''National Taxing Authority Certification,'' must:

- Be in English;
- Be from the national taxing authority of the country in which the business is headquartered;
- Provide the business' gross receipts or sales for the most recent year, in both the local currency and in U.S. dollars, and the exchange rate used in converting local currency to U.S. dollars;
- Provide the dates during which the reported receipts or sales were collected; and
- Bear the official seal of the national taxing authority.

Both FDA Forms 3602 and 3602A are available in the guidance document, ''Guidance for Industry, FDA and Foreign Governments: FY 2010 MDUFMA Small Business Qualification and Certification'' *, available on the Internet at http://www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/Overview/MedicalDeviceUserFeeandModernizationActMDUFMA/UCM179257.pdf*. This guidance describes the criteria FDA will use to decide whether an entity qualifies as a MDUFMA small business and will help prospective applicants understand what they need to do to meet the small business criteria for FY 2010.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

FDA Form No.	Number of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
3602	3,000	1	3,000	1	3,000
3602A Sections I and II	340	1	340	1	340
3602A Section III	33	7	231	1	231
TOTALS					3,571

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

The FDA Form 3602 burden is based on the number of applications received in the last 3 years. FDA believes most entities that submit FDA Form 3602A will not have any affiliates, and very few will have more than three or four affiliates. Based on our experience with FDA Form 3602A, FDA believes each business will require 1 hour to complete Sections I and II. FDA does not have any data on the time that will be required to complete Section III, the National Taxing Authority Certification, since there is a different tax verification process by each country's National Taxing Authority.

The information collection for FDA Form 3602 is currently approved under OMB control number 0910–0508. The information collection for FDA Form 3602A is currently approved under OMB control number 0910–0613. With this request for approval, FDA is requesting to consolidate OMB approvals 0910–0508 and 0910–0613 into one information collection using the OMB control number 0910–0508.

Dated: October 16, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–25538 Filed 10–22–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0505]

Agency Information Collection Activities; Proposed Collection; Comment Request; Recordkeeping and Reporting Requirements for Human Food and Cosmetics Manufactured From, Processed With, or Otherwise Containing, Material From Cattle

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 the information collection requirements of FDA's regulations that require records on FDA-regulated human food, including dietary supplements, and cosmetics that are manufactured from, processed with, or otherwise contain, material derived from cattle.

DATES: Submit written or electronic comments on the collection of information by December 22, 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 comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Recordkeeping and Reporting Requirements for Human Food and Cosmetics Manufactured From, Processed With, or Otherwise Containing, Material From Cattle—21 CFR 189.5(c) and 700.27(c) (OMB Control Number 0910–0597—Extension)

Sections 189.5(c) and 700.27(c) (21 CFR 189.5(c) and 700.27(c)) of FDA's regulations set forth the requirements for recordkeeping and records access for FDA-regulated human food, including dietary supplements, and cosmetics that are manufactured from, processed with, or otherwise contain, material derived from cattle. FDA issued these recordkeeping regulations under the adulteration provisions in sections 402(a)(2)(C), (a)(3), (a)(4), (a)(5), 601(c), and 701(a) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 342(a)(2)(C), (a)(3), (a)(4), (a)(5), 361(c), and 371(a)). Under section 701(a) of the act, FDA is authorized to issue regulations for the act's efficient enforcement. With regard to records concerning imported human food and cosmetics, FDA relied on its authority under sections 801(a) and 701(b) of the act (21 U.S.C. 381(a)). Section 801(a) of the act provides requirements with regard to imported food and cosmetics and provides for refusal of admission into the United States of human food and cosmetics that appear to be adulterated. Section 701(b) of the act authorizes the Secretaries of Treasury and Health and Human Services to jointly prescribe regulations for the efficient enforcement of section 801 of the act.

These requirements are necessary because, once materials are separated from an animal, it may not be possible without records to know the following: (1) Whether cattle material may contain specified risk materials (SRMs). SRMs include brain, skull, eyes, trigeminal ganglia, spinal cord, vertebral column (excluding the vertebrae of the tail, the transverse processes of the thoracic and lumbar vertebrae and the wings of the sacrum), and dorsal root ganglia from animals less than 30 months old and tonsils and distal ileum of the small intestine from all animals of all ages; (2) whether the source animal for cattle material was inspected and passed; (3) whether the source animal for cattle material was nonambulatory disabled or mechanically separated beef; and (4) whether tallow in a human food or cosmetic contains less than 0.15 percent insoluble impurities.

These regulations implement recordkeeping for the provisions of FDA's interim final rule entitled ''Use of Materials Derived From Cattle in Human Food and Cosmetics'' (the IFR) (69 FR 42256, July 14, 2004). FDA's regulations in §§ 189.5(c) and 700.27(c) require that manufacturers and processors of human food and cosmetics that are manufactured from, processed with, or otherwise contain, material from cattle establish and maintain records sufficient to demonstrate that the human food or cosmetic is not manufactured from, processed with, or does not otherwise contain, prohibited cattle materials. These records must be retained for 2 years at the manufacturing or processing establishment or at a reasonably accessible location. Maintenance of electronic records is acceptable and electronic records are considered to be reasonably accessible if they are accessible from an onsite location. Records required by these sections and existing records relevant to compliance with these sections must be available to FDA for inspection and copying. Existing records may be used if they contain all of the required information and are retained for the required time period.

Because we do not easily have access to records maintained at foreign establishments, FDA regulations in §§ 189.5(c)(6) and 700.27(c)(6), respectively, require that when filing for entry with U.S. Customs and Border Protection, the importer of record of a human food or cosmetic manufactured from, processed with, or otherwise containing, cattle material must affirm that the human food or cosmetic was manufactured from, processed with, or otherwise contains, cattle material and must affirm that the human food or cosmetic was manufactured in accordance with the applicable requirements of §§ 189.5 or 700.27. In addition, if a human food or cosmetic is manufactured from, processed with, or otherwise contains, cattle material, then the importer of record must, if requested, provide within 5 business days records sufficient to demonstrate that the human food or cosmetic is not manufactured from, processed with, or does not otherwise contain, prohibited cattle material.

Description of Respondents: Respondents to this information collection include manufacturers, processors, and importers of FDA-regulated human food, including dietary supplements, and cosmetics that are manufactured from, processed with, or otherwise contain, material derived from cattle.

FDA estimates the burden of this collection of information as follows:

This estimate is based on FDA's estimate of the number of facilities affected by the final rule entitled,

''Recordkeeping Requirements for Human Food and Cosmetics Manufactured From, Processed With, or Otherwise Containing, Material From Cattle,'' published in the **Federal Register** of October 11, 2006 (71 FR 59653 at 59667).

TABLE 1.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Record	Total
Domestic Facilities 189.5(c) and 700.27(c)	697	52	36,244	0.25	9,061
Foreign Facilities 189.5(c) and 700.27(c)	916	52	47,632	0.25	11,908
Total					20,969

[1] There are no capital or operating and maintenance costs associated with this collection of information.

FDA estimates that there are 697 domestic facility relationships (71 FR 59653 at 59667), and 916 foreign facility relationships (71 FR 59653 at 59663), consisting of the following facilities: An input supplier of cattle-derived materials that requires records (the upstream facility) and a purchaser of cattle-derived materials requiring documentation—this may be a human food or cosmetic manufacturer or processor. The recordkeeping burden of FDA's regulations in §§ 189.5(c) and 700.27(c) is the burden of sending, verifying, and storing documents regarding shipments of cattle material that is to be used in human food and cosmetics. In this estimate of the recordkeeping burden, we treat these recordkeeping activities as shared activities between the upstream and downstream facilities. It is in the best interests of both facilities in the relationship to share the burden necessary to comply with the regulations; therefore, we estimate the time burden of developing these records as a joint task between the two facilities. Thus, we estimate that this recordkeeping burden will be about 15 minutes per week, or 13 hours per year (71 FR 59653 at 59667), and we assume that the recordkeeping burden will be shared between 2 entities (i.e. the ingredient supplier and the manufacturer of finished products). Therefore, the total recordkeeping burden for domestic facilities is estimated to be 13 hours x 697 = 9,061 hours, and the total recordkeeping burden for foreign facilities is estimated to be 13 hours x 916 = 11,908 hours, as shown in table 1 of this document.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
189.5(c)(6) and 700.27(c)(6)	54,825	1	54,825	0.033	1,809

[1] There are no capital or operating and maintenance costs associated with this collection of information.

FDA's regulations in §§ 189.5(c)(6) and 700.27(c)(6) impose a reporting burden on importers of human food and cosmetics that are manufactured from, processed with, or otherwise contain, cattle material. Importers of these products must affirm that the food or cosmetic is manufactured from, processed with, or does not otherwise contain, prohibited cattle materials and must affirm that the human food or cosmetic was manufactured in accordance with the applicable requirements of §§ 189.5 or 700.27. The affirmation is made by the importer of record to FDA through the agency's Operational and Administrative System for Import Support. Affirmation by importers is expected to take approximately 2 minutes per entry line. Table 2 of this document shows that 54,825 lines of food and cosmetics that likely contain cattle materials are imported annually (71 FR 59653 at 59667). The annual reporting burden of affirming whether import entry lines contain cattle-derived materials is estimated to take 1,809 hours annually (54,825 lines x 2 minutes per line).

Dated: October 16, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–25537 Filed 10–22–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–10–0789]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Program Effectiveness Evaluation of Workplace Intervention for Intimate Partner Violence (IPV)—[OMB# 0920–0789] [exp. 12/31/09]—Extension—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Intimate partner violence (IPV) affects a substantial number of Americans, and there has recently been increasing recognition of the impact it has on the workplace. In addition to direct impacts (batterers often stalk or even attack IPV

victims at their place of work), IPV has indirect impacts on the workplace environment through lost productivity due to medical leave, absenteeism, and fear and distraction on the part of victims and coworkers. The Centers for Disease Control and Prevention (CDC) contracted with RTI International (RTI) to evaluate an ongoing workplace IPV prevention program being implemented at a national corporation. The purpose of the proposed evaluation is to document in detail the workplace IPV prevention activities delivered by the company, to determine the impact of these activities on short-term and long-term outcomes, and to determine the cost-effectiveness of the program. All managers at the corporate office of the corporation have been screened to assess training experiences. More in-depth surveys were conducted with managers who had not completed the corporation's IPV training. We have surveyed managers at baseline, and 6 months later. Manager surveys focus on knowledge/awareness of IPV and company resources for IPV and number of referrals for IPV assistance. This extension is requested to cover the 12-month follow-up administration of this survey. Due to unexpected delays at the evaluation site and an inability to field the 6-month follow up survey with managers when originally scheduled, we will need to push the timeline for 12-month follow up back approximately 3 months.

We have also surveyed employees of those managers who completed the baseline survey using an anonymous Web-based survey at baseline. These employees will also be surveyed 12 months later (during the extension period) to assess their self-evaluated productivity, absenteeism, and perceptions of manager behavior. We will compare the responses of managers (and their employees) who received the IPV training in the study period (*i.e.,* sometime between the baseline and 12 month surveys) with untrained managers. The study will provide CDC and employers information about the potential effectiveness and cost-effectiveness of workplace IPV intervention strategies.

There are no costs to respondents except their time to participate in the interview. The estimated total annualized burden hours are 1125.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Manager	500	3	30/60
Employee	1500	1	15/60

Dated: October 16, 2009.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E9–25531 Filed 10–22–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are 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.

Proposed Project: Targeted Capacity Expansion Program for Substance Abuse Treatment and HIV/AIDS Services (TCE–HIV)—NEW

This data collection is to study the risk and protective factors related to substance use and HIV. The primary purpose of the Project is to conceptualize, plan, and implement a multi-site evaluation to investigate the process, outcome, and impact of substance abuse treatment and HIV/AIDS services provided by 49 SAMHSA grantees. The grantees' focus is on enhancing and expanding substance abuse treatment and/or outreach and pretreatment services in conjunction with HIV/AIDS services in African American, Hispanic/Latino, and other racial and ethnic minority communities. A multi-stage approach has been used to develop the appropriate theoretical framework, conceptual model, evaluation design and protocols, and data collection instrumentation. Process and outcome measures have been developed to fully capture community and contextual conditions, the scope of the TCE–HIV Grantee program implementation and activities, and client outcomes. A mixed-method approach (survey, semi-structured interviews, focus groups) will be used, for example, to examine collaborative community linkages established between grantees and other service providers (*e.g.,* primary health care, medical services for PLWHA, substance abuse recovery support services), determine which program models and what type and amount of client exposure to services contribute to significant changes in substance abuse and HIV/AIDS risk behaviors of the targeted populations, and determine the impact of the TCE–HIV services on providers, clients, and communities.

The data collection for the project will be conducted bi-annually (*i.e.,* every other year during the 4 year period) and the client outcome data collection is ongoing throughout the project and will be collected at baseline, discharge and 6 months post baseline for all treatment clients. The respondents are clinic-based social workers and counselors (*e.g.,* social workers, licensed alcohol and drug counselors, licensed clinical professional counselors, licensed

clinical social workers), clinic-based administrators and clinic-based clients.

The estimated annualized burden is summarized below.

Respondents	Estimated number of respondents	Estimated number of responses per respondent	Total number of responses	Average burden hours per response	Estimated total burden hours
Project Director/Program Manager (Semi-Structured Interviews)	49	2	98	1.5	147.0
Grantee Staff (Semi-Structured Interviews)	441	2	882	1.0	882.0
Community Collaborators (Semi-Structured Interviews)	245	2	490	1.0	490.0
Treatment Client Focus Group	441	2	882	1.0	882.0
Treatment Client Survey:					
Baseline Data Collection	2,050	1	2,050		861.0
Discharge Data Collection	2,050	1	2,050	0.42	861.0
6-Month post Baseline Data Collection	2,050	1	2,050		861.0
Treatment Client Dosage Form Discharge Data Collection	2,050	1	2,050	0.25	512.5
Total	3,226		10,552		5,496.5

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 7–1044, One Choke Cherry Road, Rockville, MD 20857 *and* e-mail her a copy at: *summer.king@samhsa.hhs.gov*. Written comments should be received within 60 days of this notice.

Dated: October 15, 2009.

Elaine Parry,

Director, Office of Program Services.

[FR Doc. E9–25530 Filed 10–22–09; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are 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.

Proposed Project: Substance Abuse Prevention and Treatment Block Grant Synar Report Format, FFY 2011–2013—(OMB No. 0930–0222)—Revision

Section 1926 of the Public Health Service Act [42 U.S.C. 300x–26] stipulates that funding Substance Abuse Prevention and Treatment (SAPT) Block Grant agreements for alcohol and drug abuse programs for fiscal year 1994 and subsequent fiscal years require States to have in effect a law providing that it is unlawful for any manufacturer, retailer, or distributor of tobacco products to sell or distribute any such product to any individual under the age of 18. This section further requires that States conduct annual, random, unannounced inspections to ensure compliance with the law; that the State submit annually a report describing the results of the inspections, describing the activities carried out by the State to enforce the required law, describing the success the State has achieved in reducing the availability of tobacco products to individuals under the age of 18, and describing the strategies to be utilized by the State for enforcing such law during the fiscal year for which the grant is sought.

Before making an award to a State under the SAPT Block Grant, the Secretary must make a determination that the State has maintained compliance with these requirements. If a determination is made that the State is not in compliance, penalties shall be applied. Penalties ranged from 10 percent of the Block Grant in applicable year 1 (FFY 1997 SAPT Block Grant Applications) to 40 percent in applicable year 4 (FFY 2000 SAPT Block Grant Applications) and subsequent years. Respondents include the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, Palau, Micronesia, and the Marshall Islands.

Regulations that implement this legislation are at 45 CFR 96.130, are approved by OMB under control number 0930–0163, and require that each State submit an annual Synar report to the Secretary describing their progress in complying with section 1926 of the PHS Act. The Synar report, due December 31 following the fiscal year for which the State is reporting, describes the results of the inspections and the activities carried out by the State to enforce the required law; the success the State has achieved in reducing the availability of tobacco products to individuals under the age of 18; and the strategies to be utilized by the State for enforcing such law during the fiscal year for which the grant is sought.

SAMHSA's Center for Substance Abuse Prevention will request OMB approval of revisions to the current report format associated with Section 1926 (42 U.S.C. 300x–26). The report format is minimally changing. Any changes in either formatting or content are being made to simplify the reporting process for the States and to clarify the information as the States report it; both outcomes will facilitate consistent, credible, and efficient monitoring of Synar compliance across the States and will reduce the reporting burden by the States. All of the information required in the new report format is already being collected by the States. Specific revisions all appear in Section I

(Compliance Progress) of the report format and include clarifications to Questions 4a, 5b, 5e and 5f. Additionally, three new questions (5c, 5d and 5g) have been added and two items have been added to Question 7b. Information on these additions appears below:

Question 5c: Level of Enforcement—This question, which asks the State to select whether enforcement is conducted only at those outlets randomly selected for the Synar survey, only at a subset of outlets not randomly selected for the Synar survey, or a combination of the two, has been newly added to the ASR format. It has been added to provide additional information about State enforcement programs, which is frequently requested by partner agencies and can also be used to target technical assistance.

Question 5d: Frequency of Enforcement—This question, which asks the State to select whether every tobacco outlet in the State did or did not receive at least one enforcement compliance check in the last year, has been newly added to the ASR format. It has been added to provide additional information about State enforcement programs, which is frequently requested by partner agencies and can also be used to target technical assistance.

Question 5g. Relationship of State Synar Program to FDA-Funded Enforcement Program—This question, which asks the State to describe the relationship between the State's Synar program and the Food and Drug Administration (FDA)-funded enforcement program, has been added to the ASR format. The Family Smoking Prevention and Tobacco Control Act, recently signed into law by President Obama, requires the FDA to reissue the 1996 regulation aimed at reducing young people's access to tobacco products and curbing the appeal of tobacco to the young. This regulation must be reissued by April 2010. As part of the implementation of this regulation, FDA will be contracting with States to enforce new Federal youth access provisions. This question asks the State to describe the relationship and coordination between its Synar program and the enforcement program funded by FDA.

Question 7b. Synar Survey Results for States that Do Not Use the Synar Survey Estimation System (SSES)—Two items have been added to this question (accuracy rate and completion rate). These items were added to ensure that the same statistical parameters are asked of both States that do and do not use the SSES to analyze their Synar survey results.

ANNUAL REPORTING BURDEN

45 CFR Citation	Number of respondents [1]	Responses per respondents	Hours per response	Total hour burden
Annual Report (Section 1—States and Territories) 96.130(e)(1–3)	59	1	15	885
State Plan (Section II–States and Territories) 96.130(e)(4,5), 96.130(g)	59	1	3	177
Total	59			1,062

[1] Red Lake Indian Tribe is not subject to tobacco requirements.

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 7–1044, One Choke Cherry Road, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: October 15, 2009.

Elaine Parry,

Director, Office of Program Services.

[FR Doc. E9–25528 Filed 10–22–09; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–2900–FN]

Medicare and Medicaid Programs; Conditional Approval of the Community Health Accreditation Program for Continued Deeming Authority for Hospices

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final notice.

SUMMARY: This notice announces our decision to conditionally approve, with a 180-day probationary period, the Community Health Accreditation Program's (CHAP's) request for continued recognition as a national accreditation program for hospices seeking to participate in the Medicare or Medicaid programs.

DATES: *Effective Date:* This final notice is effective November 20, 2009 through November 20, 2012, with a 180-day probationary period beginning November 20, 2009 through May 19, 2010.

FOR FURTHER INFORMATION CONTACT: Aviva Walker-Sicard, (410) 786–8648. Alexis Prete, (410) 786–0375. Patricia Chmielewski (410) 786–6899.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services in a hospice, provided certain requirements are met. Section 1861(dd)(1) of the Social Security Act (the Act) establishes distinct criteria for entities seeking designation as a hospice program. Under this authority, the regulations at 42 CFR part 418 specify the conditions that a hospice must meet in order to participate in the Medicare program, the scope of covered services, and the conditions for Medicare payment for hospice care. Provider agreement regulations are located in 42 CFR part 489 and regulations pertaining to the survey and certification of facilities are located in 42 CFR part 488.

Generally, in order to enter into an agreement, a hospice facility must first be certified by a State survey agency as complying with conditions or requirements set forth in part 418 of our regulations. Then, the hospice is subject to regular surveys by a State survey agency to determine whether it continues to meet these requirements. There is an alternative, however, to surveys by State agencies.

Section 1865(a)(1) of the Act provides that, if a provider entity demonstrates through accreditation by an approved national accreditation organization that all applicable Medicare conditions are met or exceeded, we may deem those provider entities as having met the requirements. Accreditation by an accreditation organization is voluntary and is not required for Medicare participation.

If an accreditation organization is recognized by the Secretary as having standards for accreditation that meet or

exceed Medicare requirements, any provider entity accredited by the national accrediting body's approved program would be deemed to meet the Medicare conditions. A national accreditation organization applying for approval of deeming authority under part 488, subpart A, must provide us with reasonable assurance that the accreditation organization requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions. Our regulations concerning reapproval of accrediting organizations are set forth at § 488.4 and § 488.8(d)(3). The regulations at § 488.8(d)(3) require accreditation organizations to reapply for continued approval of deeming authority every 6 years, or sooner as determined by CMS. CHAP's term of approval as a recognized accreditation program for hospices expires November 20, 2009.

II. Deeming Applications Approval Process

Section 1865(a)(3)(A) of the Act provides a statutory timetable to ensure that our review of deeming applications is conducted in a timely manner. The Act provides us with 210 calendar days after the date of receipt of an application to complete our survey activities and application review process. Within 60 days of receiving a completed application, we must publish a notice in the **Federal Register** that identifies the national accreditation body making the request, describes the request, and provides no less than a 30-day public comment period. At the end of the 210-day period, we must publish a notice in the **Federal Register** of our approval or denial of the application.

III. Provisions of the Proposed Notice

On May 22, 2009, we published a proposed notice (74 FR 24015) announcing CHAP's request for reapproval as a deeming organization for hospices. In this notice, we specified in detail our evaluation criteria. Under section 1865(a)(2) of the Act and in our regulations at § 488.4 (application and reapplication procedures for accreditation organizations), we conducted a review of the CHAP application in accordance with the criteria specified in our regulation, which include, but are not limited to the following:

- An onsite administrative review of CHAP's—(1) Corporate policies; (2) financial and human resources available to accomplish the proposed surveys; (3) procedures for training, monitoring, and evaluation of its surveyors; (4) ability to investigate and respond appropriately to complaints against accredited facilities; and (5) survey review and decision-making process for accreditation.
- A comparison of CHAP's hospice accreditation standards to our current Medicare conditions for participation (CoPs).
- A documentation review of CHAP's survey processes to—

++ Determine the composition of the survey team, surveyor qualifications, and the ability of CHAP to provide continuing surveyor training.

++ Compare CHAP's processes to that of State survey agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.

++ Evaluate CHAP's procedures for monitoring providers or suppliers found to be out of compliance with CHAP program requirements. The monitoring procedures are used only when the CHAP identifies noncompliance. If noncompliance is identified through validation reviews, the survey agency monitors corrections as specified at § 488.7(d).

++ Assess CHAP's ability to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.

++ Establish CHAP's ability to provide us with electronic data and reports necessary for effective validation and assessment of CHAP's survey process.

++ Determine the adequacy of staff and other resources.

++ Review CHAP's ability to provide adequate funding for performing required surveys.

++ Confirm CHAP's policies with respect to whether surveys are announced or unannounced.

++ Obtain CHAP's agreement to provide us with a copy of the most current accreditation survey together with any other information related to the survey as we may require, including corrective action plans.

In accordance with section 1865(a)(3)(A) of the Act, the May 22, 2009 proposed notice also solicited public comments regarding whether CHAP's requirements met or exceeded the Medicare CoPs for hospices. We received no public comments in response to our proposed notice.

IV. Provisions of the Final Notice

A. Differences Between CHAP's Standards and Requirements for Accreditation and Medicare's Conditions and Survey Requirements

We compared the standards contained in CHAP's accreditation requirements and survey process with the Medicare hospice CoPs and survey process as outlined in the State Operations Manual (SOM). Our review and evaluation of CHAP's deeming application, which were conducted as described in section III of this final notice, yielded the following:

- CHAP modified its policies related to the accreditation effective date in accordance with the requirements at § 489.13.
- CHAP amended its policies to include required timeframes for investigation of complaints in accordance with the requirements at section 5075.9 of the SOM.
- CHAP developed a policy to ensure facilities with condition level non-compliance on a recertification survey submit an acceptable plan of correction (PoC), and receive a follow-up focused survey, in order to meet the requirements at § 488.20(a) and § 488.28(a).
- CHAP modified its policies surrounding timeframes for sending and receiving PoCs, and to ensure that approved PoCs contain all required elements to meet Medicare requirements at section 2728 of the SOM.
- CHAP developed and incorporated measures to improve the accuracy and consistency of data submissions to CMS, in order to meet the requirements at § 488.4(b).
- CHAP developed an action plan to ensure that deemed status survey files are complete, accurate, and consistent with the requirements at § 488.6(a).
- CHAP developed an action plan to ensure recertification surveys are conducted no later than 36 months after the date of the previous standard survey, in order to meet the requirements at § 488.20(a).
- CHAP amended its policies by eliminating recommendations from the written survey findings, in order to meet the requirements at § 488.28(a) and section 2726 of the SOM.
- CHAP revised its standards to include the definitions used in the revised Medicare hospice CoPs set out at § 418.3.
- CHAP revised its standard to address the requirement that investigations and/or documentation of alleged violations must be conducted in accordance with established procedures, in order to meet the requirements at § 418.52(b)(4)(ii).
- CHAP revised its standards to include the requirement that the hospice document the patient's need for psychosocial, emotional and spiritual care as part of the comprehensive assessment, in order to meet the requirements at § 418.54.

• CHAP revised its standard to include the word ''individualized'', to meet the requirements at § 418.56(b).

• CHAP revised it standards to address the requirement that the Quality Assessment and Performance Improvement (QAPI) program be capable of showing improvement in hospice services, in order to meet the requirements at § 418.58(a)(1).

• CHAP revised its standards to address the requirement that patient care quality data be included in the QAPI program, in order to meet the requirements at § 418.58(b)(1).

• CHAP revised its standards to address the requirement that the hospice's performance improvement activities must affect palliative outcomes, patient safety, and quality of care, in order to meet the requirements at § 418.58(c)(1)(iii).

• CHAP revised its standards to include the requirement that the number of performance improvement projects must reflect the scope, complexity and past performance of the hospices services and operations, in order to meet the requirements at § 418.58(d)(1).

• CHAP revised its standards to include the requirement that the hospice's infection control program protect patients, families, visitors and hospice personnel by preventing and controlling infections and communicable diseases, in order to meet the requirements at § 418.60.

• CHAP revised its standards to address the requirement that the infection control program is an integral part of the QAPI program, in order to meet the requirements at § 418.60(b)(1).

• CHAP revised its standards to address the requirement that the hospice's infection control program include a method for identifying infectious and communicable disease problems, in order to meet the requirements at § 418.60(b)(2)(i).

• CHAP revised its standards to address the requirement that the hospice's infection control program include a plan for implementing the appropriate actions that are expected to result in improvement and disease prevention, in order to meet the requirements at § 418.60(b)(2)(ii).

• CHAP revised its standards to include language to address the CMS waiver requirements for physical therapy, occupational therapy, speech-language pathology and dietary counseling in non-urbanized areas, in order to meet the requirements at § 418.74.

• CHAP revised its standards to ensure that the hospice aide training program addressed the requirements of reading, writing and verbally reporting clinical information to patients, caregivers, and other hospice staff, in order to meet the requirements at § 418.76(b)(3)(i).

• CHAP revised its standards to require the hospice aide training program include instruction in appropriate and safe techniques in performing personal hygiene and grooming tasks, in order to meet the requirements at § 418.76(b)(3)(ix)(A) through (F), and § 418.76(b)(3)(x) through (xiii).

• CHAP revised its standards to include the requirement that hospice aide in-service training be supervised by a registered nurse, in order to meet the requirements at § 418.76(d)(1).

• CHAP revised its standards to require a registered nurse, who is a member of the interdisciplinary group, assign patients to hospice aides, in order to meet the requirements at § 418.76(g)(1).

• CHAP revised its standards to address the requirement that hospice aide assignment be ordered by the interdisciplinary group, in order to meet the requirements at § 418.76(g)(2)(i).

• CHAP revised its standards to ensure that the supervising registered nurse assesses an aide's ability to comply with infection control policies and procedures, in order to meet the requirements at § 418.76(h)(3)(iv).

• CHAP revised its standards to ensure the supervising registered nurse assess an aide's ability to report changes in the patient's condition, in order to meet the requirements at § 418.76(h)(3)(v).

• CHAP revised its standards to ensure that the hospice continually monitors and manages all services provided at all locations so that each patient and family receives the necessary care and services, in order to meet the requirements at § 418.100(f)(2).

• CHAP developed a surveyor tool that includes the requirement to review three new hires for documentation of training and competency on the use of restraints and seclusions, in order to meet the requirements at § 418.110(n)(4).

• CHAP revised its standards to ensure all entries in the medical record are legible and appropriately authenticated, in order to meet the requirements at § 418.104(b).

• CHAP revised its standards to ensure necessary medical appliances and durable medical equipment are provided by the hospice, in order to meet the requirements at § 418.106.

• CHAP revised its standards to address the hospices' responsibility to provide adequate staffing to ensure the plan of care outcomes are achieved and negative outcomes are avoided, in order to meet the requirements at § 418.110(a).

• CHAP added new standards to address CMS' ability to waive space and occupancy requirements for facilities occupied by Medicare participating hospices on December 2, 2008, in order to meet the requirements at § 418.110(f)(4)(i) through (ii).

• CHAP revised its accreditation decision letters to ensure they are accurate and contain all the required elements necessary for the CMS Regional Office to render a decision regarding deemed status of a hospice.

To verify CHAP's continued compliance with the provisions of this final notice, we will conduct a follow-up corporate onsite visit within 6 months of the date of publication of this notice.

Our review of CHAP's renewal application for hospice deeming authority revealed that CHAP has ongoing, serious, widespread areas of noncompliance, specifically CHAP's inability to provide us with accurate and timely data on deemed providers, lack of complete and accurate deemed facility survey files, and failure to ensure that recertification surveys are conducted on an interval not exceeding 36 months. Due to the significant number of areas of noncompliance identified during the review of CHAP's renewal application for hospice deeming authority, we have concerns that CHAP's accreditation program for hospices may no longer provide reasonable assurance that its accredited entities meet the Medicare requirements.

In accordance with § 488.8(d)(3), every 6 years, or sooner as determined by CMS, an approved accreditation organization must reapply for continued approval of deeming authority. CMS notifies the organization of the materials the organization must submit as part of the reapplication procedure. An accreditation organization that is not meeting the requirements of this subpart, as determined through a comparability review, must furnish CMS, upon request and at any time, with the reapplication materials CMS requests. CMS will establish a deadline by which the materials are to be submitted.

In accordance with § 488.8(f)(3)(i), if we determine that an accreditation organization has failed to adopt requirements comparable to CMS requirements, we may grant a conditional approval of the accreditation organization's deeming authority for a period of up to 1 year to adopt comparable requirements; in this

case, we are providing CHAP with a probationary period of 180 days. Within 60 days after the end of CHAP's probationary period, we will make a final determination as to whether or not CHAP's hospice accreditation requirements are comparable to CMS requirements and issue an appropriate notice that includes reasons for our determination, no later than July 18, 2010. If CHAP has not made improvements acceptable to CMS during the 180-day probationary period, we may remove recognition of deemed authority for its hospice program effective 30 days after the date we provide written notice to CHAP that its hospice deeming authority will be removed. In addition, due to the significant number of areas of noncompliance, we will conduct a follow-up corporate onsite visit to validate compliance with the provisions of this final notice.

B. Term of Approval

Based on the review and observations described in section III of this final notice, we have determined that CHAP's accreditation program for hospices requires further revision and subsequent review. We believe that with additional time, CHAP will be able to make the necessary revisions to ensure that CHAP's accreditation program for hospices meets or exceeds the Medicare requirements as stated in Part 418. Therefore, we conditionally approve CHAP as a national accreditation organization for hospices that request participation in the Medicare program, effective November 20, 2009 through November 20, 2012, with a 180-day probationary period beginning November 20, 2009 through May 19, 2010. As stated above, we will publish a final determination giving final approval or revoking such approval no later than July 18, 2010.

IV. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: September 24, 2009.

Charlene Frizzera,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. E9–25072 Filed 10–22–09; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1505–N]

Medicare Program; Criteria for Medicare Coverage of Inpatient Hospital Rehabilitation Services

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Rescission of Ruling.

SUMMARY: This notice rescinds HCFA Ruling 85–2, ''Medicare Criteria for Coverage of Inpatient Hospital Rehabilitation Services,'' 50 FR 31040 (July 31, 1985), as corrected at 50 FR 32643 (Aug. 13, 1985) which established the criteria for Medicare coverage of inpatient hospital rehabilitation services.

DATES: *Effective Date:* This notice is effective on January 1, 2010.

FOR FURTHER INFORMATION CONTACT: Julie Stankivic, (410) 786–5725.

SUPPLEMENTARY INFORMATION:

I. Background

The criteria for Medicare coverage of inpatient hospital rehabilitation services set forth in HCFA Ruling 85–2 (HCFAR–85–2) were developed more than 25 years ago, and were designed to provide coverage criteria for a small subset of providers furnishing intensive and complex therapy services in a fee-for-service environment to a small segment of patients whose rehabilitation needs could only be safely furnished at a hospital level of care. In the final rule implementing the Inpatient Rehabilitation Facility Prospective Payment System for Federal FY 2010, published August 7, 2009 in the **Federal Register** (74 FR 39762), we adopted inpatient rehabilitation facility (IRF) coverage requirements and technical revisions to certain other IRF requirements to reflect the changes that have occurred in medical practice during the past 25 years. The new IRF coverage requirements adopted in the final rule are effective for IRF discharges occurring on or after January 1, 2010. As discussed in the final rule (74 FR 39762, at 39797), we anticipate that these new coverage requirements will be further interpreted by new manual provisions in Chapter 1, Section 110 of the Medicare Benefit Policy Manual that will also go into effect on January 1, 2010. Thus, HCFAR 85–2 (and the current manual provisions, rev. 1, effective October 1, 2003) will continue to apply for all IRF discharges that occur prior to January 1, 2010.

II. Provisions of the Notice

Effective January 1, 2010, this notice rescinds HCFAR 85–2 published in the **Federal Register** on July 31, 1985 (50 FR 31040).

III. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995.

Authority: Sections 1812, 1814, 1861 and 1862 of the Social Security Act (42 U.S.C. 1395d, 1395f, and 1395x, and 1395y).

(Catalog of Federal Domestic Assistance Program No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: September 24, 2009.

Charlene Frizzera,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. E9–25544 Filed 10–22–09; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket Number NIOSH–187]

Proposed Enhancements to Occupational Health Surveillance Data Collection Through the Healthcare Personnel Safety (HPS) Component of the National Healthcare Safety Network (NHSN); Correction

A notice of public meeting and availability for public comment was published in the **Federal Register**, September 21, 2009, (74 FR 48081). This notice is corrected as follows:

On page 48081, third column: The heading ''Place'' the name of the hotel has been changed to the Doubletree Hotel.

Dated: October 14, 2009.

Tanja Popovic,

Chief Science Officer, Centers for Disease Control and Prevention.

[FR Doc. E9–25536 Filed 10–22–09; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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 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 Cancer Institute Special Emphasis Panel; Anticancer Agents.

Date: November 9, 2009.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6116 Executive Boulevard, Suite 703, Room 7142, Rockville, MD 20852. (Telephone Conference Call)

Contact Person: Thomas M. Vollberg, PhD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 7142, Bethesda, MD 20892, 301–594–9582, *vollbert@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Surveillance, Epidemiology and End Results (SEER) Program.

Date: December 15–17, 2009.

Time: 7 p.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Legacy Hotel and Meeting Center, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Kirt Vener, PhD, Branch Chief, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Blvd., Room 8061, Bethesda, MD 20892–8329, 301–496–7174, *venerk@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: October 15, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–25594 Filed 10–22–09; 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 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: Center for Scientific Review Special Emphasis Panel; Interventions for Substance Abuse.

Date: October 28, 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: Michael Micklin, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3136, MSC 7759, Bethesda, MD 20892, (301) 435–1258, *micklinm@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: October 19, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–25591 Filed 10–22–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute Environmental Health Sciences; 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 Environmental Health Sciences Special Emphasis Panel; Mentored Career Development Award Review Meeting.

Date: November 10, 2009.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Chapel Hill Hotel, One Europa Drive, Chapel Hill, NC 27514. (Telephone Conference Call)

Contact Person: Linda K. Bass, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute Environmental Health Sciences, P. O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–1307, *bass@niehs.nih.gov.*

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; Mtabolomic/Genomic Approaches To Liver Damage.

Date: November 16, 2009.

Time: 1:30 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS—Keystone Bldg, 530 Davis Drive, Morrisville, NC 27560. (Telephone Conference Call)

Contact Person: Leroy Worth, PhD, Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P. O. Box 12233, MD EC–30/Room 3171, Research Triangle Park, NC 27709, (919) 541–0670, *worth@niehs.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: October 19, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–25590 Filed 10–22–09; 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 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 Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Core Temperature in Obesity.

Date: November 18, 2009.

Time: 3 p.m. to 3:45 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: Lakshmanan Sankaran, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 755, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7799, *ls38z@nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK Ancillary R01 Application Review.

Date: November 20, 2009.

Time: 11:30 a.m. to 12:30 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: Xiaodu Guo, MD, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 761, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–4719, *guox@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Review R24 Grant Application.

Date: November 30, 2009.

Time: 11:30 a.m. to 12:30 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: Xiaodu Guo, MD, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 761, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–4719, *guox@extra.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, National Institutes of Health, HHS)

Dated: October 19, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–25589 Filed 10–22–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 Mental Health Special Emphasis Panel; National Research Service Award (NRSA) Institutional Research Training Grants.

Date: November 16, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Mandarin Oriental, 1330 Maryland Avenue, SW., Washington, DC 20024.

Contact Person: Vinod Charles, PhD, Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9606, Bethesda, MD 20892–9606, 301–443–1606.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: October 19, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–25586 Filed 10–22–09; 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 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 Child Health and Human Development Special Emphasis Panel; Human Development: Interdisciplinary Research Training.

Date: November 9, 2009.

Time: 10:30 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852. (Telephone Conference Call)

Contact Person: Carla T. Walls, PhD, Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 435–6898, *wallsc@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by thereview and funding cycle.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Training in Language: Acquisition and Adult Performance.

Date: November 13, 2009.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852 (Telephone Conference Call)

Contact Person: Carla T. Walls, PhD, Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 435–6898, *wallsc@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. 93.864, 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: October 19, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–25585 Filed 10–22–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA)

Advisory Committee for Women's Services; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of a Web-based meeting of the Substance Abuse and Mental Health Services Administration's (SAMHSA) Advisory Committee for Women's Services on November 13, 2009 from 1 p.m. to 4 p.m. The meeting is open to the public and will include an update on the committee's priorities.

ACWS members, invited presenters, and members of the public will participate in this meeting through audio/Internet-based connection. On-site attendance by the public will be limited to space available. To obtain call-in numbers and access codes, to make arrangements to attend on-site, or to request special accommodations for persons with disabilities, please communicate with Ms. Nevine Gahed, Designated Federal Official (see contact information below) or register at the SAMHSA Committees' Web site at *https://nac.samhsa.gov/Registration/meetingsRegistration.aspx.*

Substantive meeting information and a roster of Committee members may be obtained either by accessing the SAMHSA Committee's Web site at: *https://nac.samhsa.gov/WomenServices/index.aspx,* or by contacting Ms. Gahed. The transcript for the meeting will also be available on the SAMHSA Committee's Web site within three weeks after the meeting.

Committee Name: SAMHSA's Advisory Committee for Women's Services.

Date/Time/Type: Friday, November 13, 2009, from 1 p.m. to 4 p.m.: Open.

Place: 1 Choke Cherry Road, Room 8–1070, Rockville, Maryland 20857.

Contact: Nevine Gahed, Designated Federal Official, SAMHSA Advisory Committee for Women's Services, 1 Choke Cherry Road, Room 8–1112, Rockville, Maryland 20857, Telephone: (240) 276–2331; FAX: (240) 276–2220 and E-mail: *nevine.gahed@samhsa.hhs.gov*.

Toian Vaughn,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. E9–25582 Filed 10–22–09; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2009–0001]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; 1660–0095

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice; 30-day notice and request for comments; revision of a currently approved information collection; OMB No. 1660–0095; No Form.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission describes the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before November 23, 2009.

ADDRESSES: 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 Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Office of Records Management, 1800 South Bell Street, Arlington, VA 20598–3005, facsimile number (202) 646–3347, or e-mail address *FEMA-Information-Collections@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Collection of Information

Title: National Flood Insurance Program Claims Appeal Process.

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660–0095.

Form Titles and Numbers: No Forms.

Abstract: Section 205 of The Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, Public Law 108–264, 42 U.S.C. 4011 note, requires that FEMA establish an appeals process to allow respondents to request a review of an unsatisfactory decision on flood claims. Respondents will submit an appeal request and FEMA will use this information to make a decision on if the unsatisfactory decision made on a flood claim should be modified.

Affected Public: Individuals or households; Business or other for profit.

Estimated Number of Respondents: 900.

Frequency of Response: Once.

Estimated Average Hour Burden per Respondent: 2 Hours.

Estimated Total Annual Burden Hours: 1800 Hours.

Estimated Cost: There is no annual reporting and recordkeeping cost associated with this collection.

Corrections: The 60-day notice for the collection of information entitled Hazard Mitigation Grant Program Application and Reporting, which published on January 30, 2007 at 72 FR 4287, listed the incorrect OMB Number. It should have listed 1660–0076 instead of 1660–0095.

The 60-day notice for the collection of information entitled National Flood Insurance Program Claims Appeal Process, which published on July 22, 2009 at 74 FR 36241 listed an incorrect citation. This 30-day notice corrects the citation. The 60-day notice abstract also incorrectly cited the title of the Act. It

should have listed the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 instead of The Bunning-Blumenauer Flood Insurance Act of 2004.

Daisy Mitchell,

Acting Director, Records Management Division, Office of Management, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E9–25451 Filed 10–22–09; 8:45 am]

BILLING CODE 9111–52–P

DEPARTMENT OF HOMELAND SECURITY

Secret Service

Notice of Proposed Information Collection

ACTION: Notice of proposed information collection.

SUMMARY: The U.S. Department of Homeland Security, Office of the Chief Information Officer, invites comments on the proposed information collection request as required by the Paperwork Reduction Act of 1995. Currently, the U.S. Secret Service, within the U.S. Department of Homeland Security, is soliciting comments concerning the SSF 3237, Contractor Personnel Access Application Form.

DATES: Interested persons are invited to submit comments on or before December 22, 2009.

ADDRESSES: Direct all written comments to United States Secret Service, Security Clearance Division, Attn: ASAIC Gary Moore, Clearance and Access Branch, 950 H St., NW., Washington, DC 20223, Suite 3800, 202–406–6658. Individuals who use a telecommunications device for the deaf (TDD) may either call the Federal Information Relay Service (FIRS) at 1–800–877–8339 or call directly (TTY) 202–406–5390.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to: United States Secret Service, Security Clearance Division, Attn: ASAIC Gary Moore, Clearance and Access Branch, 950 H St., NW., Suite 3800, Washington, DC 20223. Telephone number: 202–406–6658.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires each Federal agency to provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The notice for this proposed information collection contains the following: (1) The name of the component of the U.S. Department of Homeland Security; (2) Type of review requested, *e.g.,* new, revision, extension, existing or reinstatement; (3) OMB Control Number, if applicable; (4) Title; (5) Summary of the collection; (6) Description of the need for, and proposed use of, the information; (7) Respondents and frequency of collection; and (8) Reporting and/or Recordkeeping burden.

The Department of Homeland Security invites public comment.

The Department of Homeland Security is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department, including whether the information will have practical utility; (2) Is the estimate of burden for this information collection accurate; (3) How might the Department enhance the quality, utility, and clarity of the information to be collected; and (4) How might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Abstract: Respondents are all Secret Service contractor personnel requiring access to Secret Service controlled facilities in performance of their contractual duties. These contractors, if approved for access, will require escorted, unescorted, and staff-like access to Secret Service controlled facilities. Responses to questions on the SSF 3237 yield information necessary for the adjudication of eligibility for facility access.

United States Secret Service

Title: Contractor Personnel Access Application.

OMB Number: 1620–0002.

Form Number: SSF 3237.

Frequency: Occasionally.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or Households/Business.

Estimated Number of Respondents: 5000.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 1250 hours.

Estimated Total Burden Cost (Capital/Startup): None.

Total Burden Cost (Operating/Maintaining): None.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: October 20, 2009.

Sharon Johnson,

Chief—Policy Analysis and Organizational Development Branch, U.S. Secret Service, U.S. Department of Homeland Security.

[FR Doc. E9–25549 Filed 10–22–09; 8:45 am]

BILLING CODE 4810–42–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Aircraft/Vessel Report (Form I–92)

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments; Extension of an existing information collection: 1651–0102.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Aircraft/Vessel Report (Form I–92). This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before December 22, 2009, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Office of Regulations and Rulings, 799 9th Street, NW., 7th Floor, Washington DC. 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to 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.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (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 estimates 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 including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document the CBP is soliciting comments concerning the following information collection:

Title: Aircraft/Vessel Report.

OMB Number: 1651–0102.

Form Number: I–92.

The Form I–92 is part of manifest requirements of Sections 231 and 251 of the Immigration and Nationality Act. This Form is used to collect passenger and crew information from commercial and military airlines and vessels upon arrival in the U.S. at CBP ports of entry. The data collected on Form I–92 is also used by other agencies to develop statistics and trends in international travel, trade, and tourism.

Current Actions: This submission is being made to extend the expiration date with no change to the burden hours.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Responses: 720,000.

Estimated Time per Respondent: 11 minutes.

Estimated Total Annual Burden Hours: 129,600.

Dated: October 19, 2009.

Tracey Denning,

Agency Clearance Officer, Customs and Border Protection.

[FR Doc. E9–25565 Filed 10–22–09; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Passenger List/Crew List (Form I–418)

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments; Extension of an existing information collection: 1651–0103.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Passenger List/Crew List (Form I–418). This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before December 22, 2009, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Office of Regulations and Rulings, 799 9th Street, NW., 7th Floor, Washington, DC. 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to 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.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (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 estimates 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 including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document the CBP is soliciting comments concerning the following information collection:

Title: Passenger List/Crew List.

OMB Number: 1651–0103.

Form Number: I–418.

Abstract: Form I–418 is used by masters or owners of vessels or aircraft in complying with Sections 231 and 251 of the Immigration and Nationality Act. This Form is filled out upon arrival of any person by water or by air at any port within the United States from any place outside the United States. The master or commanding officer of the vessel or aircraft is responsible for providing CBP officers at the port of arrival with lists or manifests of the persons onboard such conveyances.

Current Actions: This submission is being made to extend the expiration date with no change to the burden hours.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 95,000.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 95,000.

Dated: October 19, 2009.

Tracey Denning,

Agency Clearance Officer, Customs and Border Protection.

[FR Doc. E9–25568 Filed 10–22–09; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5280–N–41]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

DATES: Effective Date: October 23, 2009.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist

the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: October 15, 2009.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. E9–25214 Filed 10–22–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R7–SM–2009–N230] [70101–1261–0000–L6]

Information Collection Sent to the Office of Management and Budget (OMB) for Approval; OMB Control Number 1018–0075; Federal Subsistence Regulations and Associated Forms

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (Fish and Wildlife Service) have sent an Information Collection Request (ICR) to OMB for review and approval. We summarize the ICR below and describe the nature of the collection and the estimated burden and cost. This information collection is scheduled to expire on October 31, 2009. We 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. However, under OMB regulations, we may continue to conduct or sponsor this information collection while it is pending at OMB.

DATES: You must send comments on or before November 23, 2009.

ADDRESSES: Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or OIRA_DOCKET@OMB.eop.gov (e-mail). Please provide a copy of your comments to Hope Grey, Information Collection Clearance Officer, Fish and Wildlife Service, MS 222–ARLSQ, 4401 North Fairfax Drive, Arlington, VA 22203 (mail) or hope_grey@fws.gov (e-mail).

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Hope Grey by mail or e-mail (see ADDRESSES) or by telephone at (703) 358–2482.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 1018–0075.

Title: Federal Subsistence Regulations and Associated Forms, 50 CFR 100 and 36 CFR 242.

Service Form Number(s): FWS Forms 3–2321, 3–2322, 3–2323, 3–2326, 3–2327, 3–2328, 3–2378, and 3–2379.

Type of Request: Revision of a currently approved collection.

Affected Public: Federally defined rural residents in Alaska.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Activity	Number of annual respondents	Number of annual responses	Completion time per response	Annual burden hours
FWS Form 3–2321 - Membership Application	75	75	2 hours	150
FWS Form 3–2322 - Applicant Interview	75	75	30 minutes	36
FWS Form 3–2323 - Reference/Contact Interview	250	250	15 minutes	62
3–2326 - Hunt Application and Permit	5,000	5,000	10 minutes	833
3–2326 - Hunt Report	5,000	5,000	5 minutes	417
3–2327 - Designated Hunter Application and Permit	450	450	10 minutes	75
3–2327 - Designated Hunter - Hunt Report	450	450	5 minutes	38
3–2328 - Fishing Application and Permit	250	250	10 minutes	42
3–2328 - Fishing Report	250	250	5 minutes	21
3–2378 - Designated Fishing Application and Permit	450	450	10 minutes	75
3–2378 - Designated Fishing Report	450	450	5 minutes	38
3–2379- Customary Trade Recordkeeping Application and Permit.	25	25	10 minutes	4
3–2379 - Customary Trade Recordkeeping - Report	25	25	5 minutes	2
Petition to Repeal	1	1	2 hours	2
Proposed Changes	75	75	30 minutes	38
Special Actions Request	25	25	30 minutes	13
Request for Reconsideration (Appeal)	3	3	4 hours	12
Traditional/Cultural/Educational Permits and Reports	20	20	30 minutes	10
Fishwheel, Fyke Net, and Under Ice Permits and Reports	8	8	15 minutes	2
Totals	12,882	12,882		1,872

Abstract: The Alaska Interest Lands Conservation Act (ANILCA) and regulations at 50 CFR 100 and 36 CFR 242 require that persons engaged in taking fish, shellfish, and wildlife on public lands in Alaska for subsistence uses apply for and obtain a permit to do so and comply with reporting provisions of that permit. Under the current approval for this information collection, we use three forms to collect information from qualified rural residents for subsistence harvest:

(1) FWS Form 3–2326 (Federal Subsistence Hunt Application, Permit, and Report).

(2) FWS Form 3–2327 (Designated Hunter Permit Application, Permit, and Report.

(3) FWS Form 3–2328 (Federal Subsistence Fishing Application, Permit, and Report.

We are proposing to add two new forms:

(1) FWS Form 3–2378 (Designated Fishing Permit Application, Permit, and Report).

(2) FWS Form 3–2379 (Federal Subsistence Customary Trade Recordkeeping Form).

We use the information collected to evaluate:

- Subsistence harvest success.
- Effectiveness of season lengths, harvest quotas, and harvest restrictions.
- Hunting patterns and practices.
- Hunter use.

The Federal Subsistence Board uses the harvest data, along with other information, to set future season dates and bag limits for Federal subsistence resource users. These seasons and bag limits are set to meet needs of

subsistence hunters without adversely impacting the health of existing animal populations.

Also included in this ICR, are three forms associated with recruitment and selection of members for regional advisory councils. These forms are currently approved under OMB Control No. 1018–0120 (which will be discontinued upon approval of this ICR):

(1) FWS Form 2321 (Federal Subsistence Regional Advisory Council Membership Application/Nomination).

(2) FWS Form 2322 (Regional Advisory Council Candidate Interview).

(3) FWS Form 2323 (Regional Advisory Council Reference/Key Contact Interview).

The member selection process begins with the information that we collect on the application. Ten interagency review panels interview all applicants and nominees, their references, and regional key contacts. These contacts are all based on the information that the applicant provides on the application form. The information that we collect through the application form and subsequent interviews is the basis of the Federal Subsistence Board's recommendations to the Secretaries of the Interior and Agriculture for appointment and reappointment of council members.

During the renewal process for this ICR, we reviewed our regulations and discovered some information collection requirements not specifically addressed in our previous request for approval. Our regulations at 50 CFR 100 contain procedures for these requirements, including necessary documentation. We collect nonform information on:

(1) Repeal of Federal subsistence rules and regulations (50 CFR 100.14 and 36 CFR 242.14).

(2) Proposed changes to Federal subsistence regulations (50 CFR 100.18 and 36 CFR 242.18).

(3) Special action requests (50 CFR 100.19 and 36 CFR 242.19).

(4) Requests for reconsideration (50 CFR 100.20 and 36 CFR 242.20).

(5) Requests for permits and reports, such as traditional religious/cultural/educational permits; fishwheel permits; fyke net permits; and under ice permits (50 CFR 100.25–27 and 36 CFR 242.25–27).

Comments: On May 28, 2009, we published in the **Federal Register** (74 FR 25575) a notice of our intent to request that OMB renew this information collection. In that notice, we solicited comments for 60 days, ending on July 27, 2009. We did not receive any comments in response to that notice.

We again invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- 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.

Comments that you submit in response to this notice are a matter of public record. 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 OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: October 19, 2009.

Hope Grey,

Information Collection Clearance Officer, Fish and Wildlife Service.

FR Doc. E9–25599 Filed 10–22–09; 8:45 am

BILLING CODE 4310–55–S

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Coquille Indian Tribe Liquor Control Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes an amendment to the Tribal Code (Code), Liquor Control, Chapter 200, for the Coquille Indian Tribe Liquor Control Ordinance. The amendment regulates and controls the possession and consumption of liquor within the Tribal lands. The Tribal lands are located in Indian country and this amended Code allows for possession of alcoholic beverages within their boundaries. This Code will increase the ability of the Tribal government to control liquor possession, sale and use in the community.

DATES: *Effective Date:* This Ordinance is effective on November 23, 2009.

FOR FURTHER INFORMATION CONTACT: Betty Scissons, Tribal Government Services Officer, Northwest Regional Office, 911 NE., 11th Ave., 8th Floor, Portland, OR 97232, Telephone: (503) 231–6723, Fax (503) 231–2189; or Elizabeth Colliflower, Office of Indian Services, 1849 C Street, NW., Mail Stop 4513–MIB, Washington, DC 20240, Telephone: (202) 513–7640.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice* v. *Rehner,* 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country. The Coquille Indian Tribe amended the liquor control section of its Tribal Code by Resolution No. CY0933 on February 28, 2009. The purpose of this amended code is to govern the possession of alcohol within Tribal lands of the Tribe.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs. I certify that this Liquor Control Ordinance of the Code of the Coquille Indian Tribe was duly adopted by the Tribal Council, on February 28, 2009.

Dated: October 14, 2009.

Paul Tsosie,

Chief of Staff, Assistant Secretary—Indian Affairs.

The Coquille Indian Tribe Liquor Control Ordinance reads as follows:

Coquille Indian Tribal Code

Chapter 200

Part 2—Economic Development

Liquor Control

200.010 General

1. *Purpose.* This Ordinance is for the purpose of regulating the sale, possession and use of alcoholic liquor on the Coquille Indian Reservation and other lands subject to Tribal jurisdiction. The enactment of this ordinance will increase the ability of the Tribal government to regulate liquor distribution and possession on the Coquille Indian Reservation, as defined below.

2. *Background.* Subject to certain limitations, Article VI, Section 1 of the Constitution of the Coquille Indian Tribe vests the Coquille Tribal Council with legislative and executive authority, including the authority to adopt this Ordinance. This Ordinance replaces CITC Chapter 200, enacted on May 9, 1995 and which remained in effect until adoption of this restatement.

3. *Jurisdiction.* This Ordinance conforms to all requisite laws as required by 18 U.S.C. § 1161.

200.120 Definitions

To the extent that definitions are consistent with Tribal or Federal law, terms used herein shall have the same meaning as defined in Oregon Revised Statutes Chapter 471, and in Oregon Administrative Rules Chapter 845.

1. ''Alcoholic liquor'' shall mean any alcoholic beverage containing more than one-half of one percent alcohol by volume, and every liquid or solid, patented or not, containing alcohol and capable of being consumed by a human being.

2. ''Coquille Indian Reservation'' shall mean all lands held in trust by the United States for the Tribe or its members and all lands over which the Tribe exercises jurisdiction, wherever located.

3. Whenever the words ''sell'' or ''to sell'' refer to anything forbidden by this Chapter and related to alcoholic liquor, they include:

(a) To solicit or receive an order;

(b) To keep or expose for sale;

(c) To deliver for value or in any way other than purely gratuitously;

(4) To peddle;

(d) To keep with intent to sell;

(e) To traffic in, or

(f) To engage in a transaction for any consideration or promise obtained directly or indirectly under any pretext or by any means or to procure or allow to be procured for any other person.

(g) The word ''sale'' includes every act of selling as defined in subsection (3) of this section.

(h) The word ''person'' includes a human being or any entity that is recognized by law as having the rights and/or duties of a human being.

200.150 Civil Violation

In addition to being grounds for revocation of a license, any of the following shall be a civil violation prosecutable under CITC Chapter 650, unless they are otherwise authorized by this Ordinance:

1. For any person to sell, trade or manufacture any alcoholic liquor on the Coquille Indian Reservation except as provided for in this Ordinance.

2. For any business establishment or person on the Coquille Indian Reservation to possess, transport or keep with intent to sell, barter or trade to another, any liquor, except for those commercial liquor establishments on the Coquille Indian Reservation licensed by the Tribe, provided, however, that a person may transport liquor from a licensed establishment consistent with the terms of the license.

3. For any person to consume alcoholic liquor on a public highway.

4. For any person to publicly consume any alcoholic liquor at any community function, or at or near any place of business, Indian celebration grounds, recreational areas, including ballparks, and public camping areas, Tribal government facilities, Coquille Indian Housing Authority facilities, and any other public area where minors gather for meetings or recreation, except within a Tribally licensed establishment where alcohol is sold.

5. For any person under the age of 21 years to buy, attempt to buy or to misrepresent their age in attempting to buy, alcoholic liquor.

6. For any person under the age of 21 years to transport, possess or consume any alcoholic liquor on the Coquille Indian Reservation, or to be under the influence of alcohol or to be at an established commercial liquor establishment, except as authorized under this Ordinance.

7. For any person to sell or furnish alcoholic liquor to any person under 21 years of age.

8. For alcoholic liquor to be given as a prize, premium or consideration for a lottery, contest, game of chance or skill, or competition of any kind.

200.200 Licensing Procedure

1. Requests for a license under this Ordinance must be presented to the Tribal Council at least 30 days prior to the requested effective date. Tribal Council shall set license conditions at least as strict as those required by Federal law, including at a minimum:

(a) Alcoholic liquor may only be served and handled in a manner no less strict than allowed under Oregon Revised Statutes Chapter 471.

(b) Alcoholic liquor may only be served by employees of the licensee; and

(c) Alcoholic liquor may be served in rooms where gambling is taking place if authorized by Tribal Council resolution.

2. Tribal Council action on a license request must be taken at a regular or special meeting.

3. Unless the request is for a special event license, the Tribal Council shall give at least 14 days' notice of the meeting at which the request will be considered. Notice shall be posted at the Tribal government administration building and at the establishment requesting the license, and will be sent by Certified Mail to the Oregon Liquor Control Commission.

4. The Tribal Council may revoke a license for reasonable cause upon notice and hearing at which the licensee is given an opportunity to respond to any charges against it and to demonstrate why the license should not be suspended or revoked.

5. Licenses issued by the Tribe shall not be transferable and may only be utilized by the person in whose name it was issued.

200.300 Sale or Service of Liquor by Licensee's Minor Employees

1. The holder of a license issued under this Ordinance or Oregon Revised Statutes Chapter 471 may employ persons 18, 19 and 20 years of age who may take orders for, serve and sell alcoholic liquor in any part of the licensed premises when that activity is incidental to the serving of food except in those areas classified by the Oregon Liquor Control Commission as being prohibited to the use of minors. However, no person who is 18, 19 or 20 years of age shall be permitted to mix, pour or draw alcoholic liquor except when pouring is done as a service to the patron at the patron's table or drawing is done in a portion of the premises not prohibited to minors.

2. Except as stated in this section, it shall be unlawful to hire any person to work in connection with the sale and service of alcoholic beverages in a Tribally licensed liquor establishment if such person is under the age of 21 years.

200.350 Memorandums of Understanding With the State of Oregon Regarding Certain Liquor Licensing and Regulation

1. Notwithstanding any other provision of this Ordinance, the Tribe hereby authorizes and ratifies the negotiation and execution of the September 1, 2004 document entitled Memorandum of Understanding Governing Liquor Licensing and Regulation (the ''MOU'') between the Tribe and the State of Oregon, and this authorization and ratification shall be retroactive to September 1, 2004. Moreover, with regard to the sale of alcoholic liquor at an establishment described in the MOU, any provision of this Ordinance shall yield to a conflicting provision of the MOU.

2. Notwithstanding any other provision of this Ordinance, the sale of alcoholic liquor, by the Tribe or an entity owned by the Tribe, at an establishment described in the MOU shall be governed exclusively by the terms of the MOU.

200.400 Warning Signs Required

1. Any person in possession of a valid retail liquor license, who sells liquor by the drink for consumption on the premises or sells for consumption off the premises, shall post a sign informing the public of the effects and risks of

alcohol consumption during pregnancy as required under this section.

2. The sign shall:

(a) Contain the message: ''Pregnancy and alcohol do not mix. Drinking alcoholic beverages, including wine, coolers and beer, during pregnancy can cause birth defects.''

(b) Be either:

(1) A large sign, no smaller than eight and one-half inches by 11 inches in size with lettering no smaller than five-eighths of an inch in height; or

(2) A reduced sign, five by seven inches in size with lettering of the same proportion as the large sign described in paragraph (1) of this subsection.

(c) Contain a graphic depiction of the message to assist nonreaders in understanding the message. The depiction of a pregnant female shall be universal and shall not reflect a specific race or culture.

(d) Be in English unless a significant number of the patrons of the retail premises use a language other than English as a primary language. In such cases, the sign shall be worded both in English and the primary language or languages of the patrons.

(e) Be displayed on the premises of all licensed retail liquor premises as either a large sign at the point of entry, or a reduced sized sign at points of sale.

200.500 Violations of This Ordinance

1. Any person who violates the provisions of this Ordinance is deemed to have consented to the jurisdiction of the Tribal Court and may be subject to a civil penalty in Tribal Court for a civil violation. Such civil penalty shall not exceed the sums described in CITC Chapter 650.

2. Such civil violations shall be prosecuted under the procedures set forth in CITC Chapter 650.

3. The Tribal Council hereby specifically finds that such civil penalties are reasonably necessary and are related to the expense of governmental administration necessary in maintaining law and order and public safety on the Reservation and in managing, protecting and developing the natural resources on the Reservation. It is the legislative intent of the Tribal Council that all violations of this Chapter, whether committed by Tribal members, non-member Indians, or non-Indians, be considered civil in nature rather than criminal.

200.600 Severability

If a court of competent jurisdiction finds any provision of this Ordinance to be invalid or illegal under applicable Federal or Tribal law, such provision shall be severed from this Ordinance and the remainder of this Ordinance shall remain in full force and effect.

200.700 Compliance With 18 U.S.C. 1161

The Tribe will comply with Oregon Liquor Laws to the extent required by 18 U.S.C. 1161.

200.800 Effective Date

This Ordinance shall be effective upon publication in the **Federal Register** after approval by the Secretary of the Interior or his designee.

200.900 Sovereign Immunity

Nothing in this Ordinance waives the sovereign immunity of the Coquille Indian Tribe or any of its officers, directors or employees.

History of Amendments to Chapter 200 Liquor Control Ordinance 5/9/95

Adopted 2/28/09 CY0933.
Amended 5/21/09 CY0986.

[FR Doc. E9–25467 Filed 10–22–09; 8:45 am]
BILLING CODE 4310–4J–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 August 17, to August 21, 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: October 13, 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.

IOWA

Madison County

Seerley, William and Mary (Messersmith) Barn and Milkhouse—Smokehouse, 1840 137th La., Earlham vicinity, 09000621, LISTED, 8/20/09.

MASSACHUSETTS

Norfolk County

Sea Street Historic District, Roughly bounded by Bridge, North, Neck Sts., Crescent Rd., Pearl St. and rear of Standish St., Weymouth, 09000646, LISTED, 8/19/09.

MINNESOTA

McLeod County

Komensky School, 19981 Major Ave., Hutchinson vicinity, 09000622, LISTED, 8/20/09.

Ramsey County

O'Donnell Shoe Company Building, 509 Sibley St., St. Paul, 09000623, LISTED, 8/20/09.

MISSISSIPPI

Lee County

Carnation Milk Plant, 520 Carnation St., Tupelo, 09000624, LISTED, 8/20/09.

Marion County

Columbia North Residential Historic District, Roughly bounded by High School and N. Main St. on the W. and Park Ave. and Branton Ave. on the E., Columbia, 09000625, LISTED, 8/20/09.

MISSOURI

St. Louis Independent City

Stickney, William A., Cigar Company Building, 209 N. 4th St., St. Louis, 09000627, LISTED, 8/20/09.

MONTANA

Missoula County

Missoula Downtown Historic District, Roughly bounded by Northern Pacific RR, Clak Fork R, Little McCormick Park and Madison St., Missoula, 07000647, LISTED, 8/21/09. (Missoula MPS.)

NEW YORK

Broome County

Wells, J. Stuart, House, 71 Main St., Binghamton, 09000628, LISTED, 8/21/09.

Chautauqua County

Wellman Building, The, 101–103 W. 3rd St. & 215–217 Cherry St., Jamestown, 09000629, LISTED, 8/21/09.

Erie County

Lafayette Avenue Presbyterian Church, 875 Elmwood Ave., Buffalo, 09000630, LISTED, 8/21/09.

St. Francis Xavier Roman Catholic Parish Complex, 157 East St., Buffalo, 09000631, LISTED, 8/20/09.

Kings County

Brooklyn Trust Company Building, 177 Montague St., Brooklyn, 09000632, LISTED, 8/20/09.

Lewis County

Pine Grove Community Church, Austin Rd. & Pine Grove Rd., Pine Grove vicinity, 09000633, LISTED, 8/20/09.

New York County

Emerson, The, 554 W. 53rd St., New York, 09000634, LISTED, 8/20/09.

Oneida County

von Steuben, Baron, Memorial Site, Starr Hill Rd., Remsen vicinity, 09000635, LISTED, 8/21/09.

NORTH CAROLINA

Mecklenburg County

Huntersville Colored High School, 302 Holbrooks Rd., Huntersville, 09000636, LISTED, 8/20/09.

Orange County

Murphy School, 3729 Murphy School Rd., Hillsborough vicinity, 09000637, LISTED, 8/20/09.

Transylvania County

East Main Street Historic District, 249–683 and 768 East Main St.; 6–7 Rice St.; St. Phillip's Ln.; 1–60 Woodside Dr.; and 33 Deacon Ln., Brevard, 09000638, LISTED, 8/20/09. (Transylvania County MPS.)

UTAH

Summit County

O'Mahony Dining Car No. 1107, 981 W. Weber Canyon Rd., Oakley, 09000639, LISTED, 8/21/09.

VIRGINIA

Lunenburg County

Fort Mitchell Depot, 5570–5605 Fort Mitchell Dr., Fort Mitchell, 09000640, LISTED, 8/20/09.

Newport News Independent City

Simon Reid Curtis House, 10 Elmhurst St., Newport News, 09000641, LISTED, 8/20/09.

Shenandoah County

Bowman-Zirkle Farm, 12097 S. Middle Rd., Edinburg vicinity, 09000642, LISTED, 8/21/09.

Clem-Kagey Farm, 291 Belgravia Rd., Edinburg vicinity, 09000643, LISTED, 8/20/09.

[FR Doc. E9–25559 Filed 10–22–09; 8:45 am]

BILLING CODE 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 October 10, 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 November 9, 2009.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

FLORIDA

Miami-Dade County

North Shore Historic District (North Beach Community (1919–1963), MPS), Roughly by 87th St., Collins Ave., 73rd., and Hawthorne Ave., Miami Beach, 09000926

Nassau County

Nassau County Jail, 233 S. 3rd. St., Fernandina Beach, 09000927

HAWAII

Honolulu County

East West Center Complex, 1601 East-West Rd., Honolulu, 09000928

Kauai County

Mahamoku, 5344 Weke Rd., Hanalei, 09000929

IOWA

Linn County

Marion Commercial Historic District (Iowa's Main Street Commercial Architecture MPS), 560–748 10th., 958–1298 7th Ave., 760–96 11th St., 766–76 13th St., 1108 8th Ave., and 969 6th Ave., Marion, 09000930

LOUISIANA

Ouachita Parish

Bosco Plantation House, 279 Pipes Ln., Monroe, 09000931

MARYLAND

Somerset County

Cullen Homestead Historic District, 4533, 27049, and 27067 Lawson Barnes Rd., Crisfield, 09000932

Glebe House, 10950 Market La., Princess Anne, 09000933

MASSACHUSETTS

Barnstable County

Sears, Jacob, Memorial Library, 23 Center St., Dennis, 09000934

Essex County

Asbury Grove Historic District, Around Asbury St., Hamilton, 09000935

Middlesex County

Middlesex Canal Historic and Archaeological District, Address Restricted, Boston, 09000936

Suffolk County

Middlesex Canal Historic and Archaeological District, Address Restricted, Boston, 09000936

MISSOURI

St. Louis Independent City

Pevely Dairy Company Plant, 1001 S. Grand, 3626 Chouteau, 1101 Motard, St. Louis, 09000937

NEBRASKA

Douglas County

Anderson Building, The, (Apartments, Flats and Tenements in Omaha, Nebraska from 1880–1962), 701 S. 24th St., 2243 Jones, Omaha, 09000938

NEW JERSEY

Cape May County

Flanders, Hotel, The, 719 E. 11th St., Ocean City, 09000939

Somerset County

Olcott Avenue Histrict District, Portions of Olcott, Childsworth, and Highview Avenues, and Church St., Bernardsville Borough, 09000940

NEW YORK

Broome County

Emmanuel Church of the Evangelical Association of Binghamton, 80 Front St., Binghamton, 09000941

Queens County

1964–1965 New York World's Fair New York State Pavilion, Flushing Meadows-Corona Park, Flushing, 09000942

OREGON

Multnomah County

Keller, Edward H. and Bertha R., House, 3028 NE Alameda St., Portland, 09000943

SOUTH DAKOTA

Gregory County

St. Augustine Church, SE Corner of 6th St. and Main St., Dallas, 09000944

St. John's Catholic Church, Section 31 R96W 73N Dickens Township, Dallas, 09000945

Lincoln County

Byrnes House, 525 N. Broadway St., Canton, 09000946

Tripp County

Tripp County Veteran's Memorial, 200 E. Third St., Winner, 09000947

TENNESSEE

Conway County

Briar Thicket Rd./Knob Creek Rd. over the Nolichucky River, Briar Thicket, 09000948

Greene County

Conway Bridge, Briar Thicket Rd./Knob Creek Rd. over the Nolichucky River, Briar Thicket, 09000948

Hamilton County

Brainerd Observatory, 10 N. Tuxedo Ave., Chattanooga, 09000949

Johnson County

Vaught, Dr. Wiley Wagner, Office, W.W. Vaught Ln., S. of Dug Hill Rd., Mountain City, 09000950

Smith County

Hull, Cordell, Bridge, Cordell Hull Bridge St. over the Cumberland River, Carthage, 09000951

WISCONSIN

Door County

GREEN BAY shipwreck (sloop) (Great Lakes Shipwreck Sites of Wisconsin MPS) Address Restricted, Sevastopol, 09000952

Request for REMOVAL has been made for the following resource:

SOUTH DAKOTA

Moody County

Ward Hall, Main St., Ward, 01001223

[FR Doc. E9–25561 Filed 10–22–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Rate Adjustments for Indian Irrigation Projects

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of proposed rate adjustments.

SUMMARY: The Bureau of Indian Affairs (BIA) owns or has an interest in irrigation projects located on or associated with various Indian reservations throughout the United States. We are required to establish irrigation assessment rates to recover the costs to administer, operate, maintain, and rehabilitate these projects. We request your comments on the proposed rate adjustments.

DATES: Interested parties may submit comments on the proposed rate adjustments on or before *December 22, 2009.*

ADDRESSES: All comments on the proposed rate adjustments must be in writing and addressed to: John Anevski, Chief, Division of Irrigation, Power and Safety of Dams, Office of Trust Services, Mail Stop 4655–MIB, 1849 C Street, NW., Washington, DC 20240, Telephone (202) 208–5480.

FOR FURTHER INFORMATION CONTACT: For details about a particular irrigation project, please use the tables in the **SUPPLEMENTARY INFORMATION** section to contact the regional or local office where the project is located.

SUPPLEMENTARY INFORMATION: The first table in this notice provides contact information for individuals who can give further information about the irrigation projects covered by this notice. The second table provides the current 2009 irrigation assessment rates, the proposed rates for the 2010 irrigation season, and proposed rates for subsequent years where these are available.

What is the meaning of the key terms used in this notice?

In this notice:

Administrative costs means all costs we incur to administer our irrigation projects at the local project level and is a cost factor included in calculating your O&M assessment. Costs incurred at the local project level do not normally include Agency, Region, or Central Office costs unless we state otherwise in writing.

Assessable acre means lands designated by us to be served by one of our irrigation projects, for which we collect assessments in order to recover costs for the provision of irrigation service. (See *total assessable acres.*)

BIA means the Bureau of Indian Affairs.

Bill means our statement to you of the assessment charges and/or fees you owe the United States for administration, operation, maintenance, and/or rehabilitation. The date we mail or hand-deliver your bill will be stated on it.

Costs means the costs we incur for administration, operation, maintenance, and rehabilitation to provide direct support or benefit to an irrigation facility. (See *administrative costs, operation costs, maintenance costs,* and *rehabilitation costs*).

Customer means any person or entity to which we provide irrigation service.

Due date is the date on which your bill is due and payable. This date will be stated on your bill.

I, me, my, you and *your* means all persons or entities that are affected by this notice.

Irrigation project means a facility or portion thereof for the delivery, diversion, and storage of irrigation water that we own or have an interest in, including all appurtenant works. The term ''irrigation project'' is used interchangeably with irrigation facility, irrigation system, and irrigation area.

Irrigation service means the full range of services we provide customers of our irrigation projects. This includes our activities to administer, operate, maintain, and rehabilitate our projects in order to deliver water.

Maintenance costs means costs we incur to maintain and repair our irrigation projects and associated equipment and is a cost factor included in calculating your O&M assessment.

Operation and maintenance (O&M) assessment means the periodic charge you must pay us to reimburse costs of administering, operating, maintaining, and rehabilitating irrigation projects consistent with this notice and our supporting policies, manuals, and handbooks.

Operation or operating costs means costs we incur to operate our irrigation projects and equipment and is a cost factor included in calculating your O&M assessment.

Past due bill means a bill that has not been paid by the close of business on the 30th day after the due date as stated on the bill. Beginning on the 31st day after the due date, we begin assessing additional charges accruing from the due date.

Rehabilitation costs means costs we incur to restore our irrigation projects or features to original operating condition or to the nearest state which can be achieved using current technology and is a cost factor included in calculating your O&M assessment.

Responsible party means an individual or entity that owns or leases land within the assessable acreage of one of our irrigation projects and is responsible for providing accurate information to our billing office and paying a bill for an annual irrigation rate assessment.

Total assessable acres means the total acres served by one of our irrigation projects.

Water delivery is an activity that is part of the irrigation service we provide our customers when water is available.

We, us, and *our* means the United States Government, the Secretary of the Interior, the BIA, and all who are authorized to represent us in matters covered under this notice.

Does this notice affect me?

This notice affects you if you own or lease land within the assessable acreage of one of our irrigation projects or if you have a carriage agreement with one of our irrigation projects.

Where can I get information on the regulatory and legal citations in this notice?

You can contact the appropriate office(s) stated in the tables for the irrigation project that serves you, or you can use the Internet site for the Government Printing Office at *http://www.gpo.gov.*

Why are you publishing this notice?

We are publishing this notice to notify you that we propose to adjust our

irrigation assessment rates. This notice is published in accordance with the BIA's regulations governing its operation and maintenance of irrigation projects, found at 25 CFR part 171. This regulation provides for the establishment and publication of the rates for annual irrigation assessments as well as related information about our irrigation projects.

What authorizes you to issue this notice?

Our authority to issue this notice is vested in the Secretary of the Interior by 5 U.S.C. 301 and the Act of August 14, 1914 (38 Stat. 583; 25 U.S.C. 385). The Secretary has in turn delegated this authority to the Assistant Secretary—Indian Affairs under Part 209, Chapter 8.1A, of the Department of the Interior's Departmental Manual.

When will you put the rate adjustments into effect?

We will put the rate adjustments into effect for the 2010 irrigation season and subsequent years where applicable.

How do you calculate irrigation rates?

We calculate annual irrigation assessment rates in accordance with 25 CFR part 171.500 by estimating the annual costs of operation and maintenance at each of our irrigation projects and then dividing by the total assessable acres for that particular irrigation project. The result of this calculation for each project is stated in the rate table in this notice.

What kinds of expenses do you consider in determining the estimated annual costs of operation and maintenance?

Consistent with 25 CFR part 171.500, these expenses include the following:

(a) Salary and benefits for the project engineer/manager and project employees under the project engineer/manager's management or control;

(b) Materials and supplies;

(c) Vehicle and equipment repairs;

(d) Equipment costs, including lease fees;

(e) Depreciation;

(f) Acquisition costs;

(g) Maintenance of a reserve fund available for contingencies or emergency costs needed for the reliable operation of the irrigation facility infrastructure;

(h) Maintenance of a vehicle and heavy equipment replacement fund;

(i) Systematic rehabilitation and replacement of project facilities;

(j) Contingencies for unknown costs and omitted budget items; and

(k) Other expenses we determine necessary to properly perform the activities and functions characteristic of an irrigation project.

When should I pay my irrigation assessment?

We will mail or hand-deliver your bill notifying you of: (a) The amount you owe to the United States; and (b) when such amount is due. If we mail your bill, we will consider it as being delivered no later than 5 business days after the day we mail it. You should pay your bill by the due date stated on the bill.

What information must I provide for billing purposes?

All responsible parties are required to provide the following information to the billing office associated with the irrigation project where you own or lease land within the project's assessable acreage or to the billing office associated with the irrigation project with which you have a carriage agreement:

(1) The full legal name of the person or entity responsible for paying the bill;

(2) An adequate and correct address for mailing or hand delivering our bill; and

(3) The taxpayer identification number or social security number of the person or entity responsible for paying the bill.

Why are you collecting my taxpayer identification number or social security number?

Public Law 104–134, the Debt Collection Improvement Act of 1996, requires that we collect the taxpayer identification number or social security number before billing a responsible party and as a condition to servicing the account.

What happens if I am a responsible party but I fail to furnish the information required to the billing office responsible for the irrigation project within which I own or lease assessable land or for which I have a carriage agreement?

If you are late paying your bill because of your failure to furnish the required information listed above, you will be assessed interest and penalties as provided below, and your failure to provide the required information will not provide grounds for you to appeal your bill or any penalties assessed.

What can happen if I do not provide the information required for billing purposes?

We can refuse to provide you irrigation service.

If I allow my bill to become past due, could this affect my water delivery?

If we do not receive your payment before the close of business on the 30th day after the due date stated on your bill, we will send you a past due notice. This past due notice will have additional information concerning your rights. We will consider your past due notice as delivered no later than 5 business days after the day we mail it. We have the right to refuse water delivery to any irrigated land for which the bill is past due. We can continue to refuse water delivery until you pay your bill or make payment arrangements to which we agree. We follow the procedures provided in 31 CFR 901.2, ''Demand for Payment,'' when demanding payment of your past due bill.

Are there any additional charges if I am late paying my bill?

Yes. We will assess you interest on the amount owed, using the rate of interest established annually by the Secretary of the United States Treasury (Treasury) to calculate what you will be assessed (31 CFR 901.9(b)). You will not be assessed this charge until your bill is past due. However, if you allow your bill to become past due, interest will accrue from the original due date, not the past due date. Also, you will be charged an administrative fee of $12.50 for each time we try to collect your past due bill. If your bill becomes more than 90 days past due, you will be assessed a penalty charge of six percent (6%) per year, which will accrue from the date your bill initially became past due. As a Federal agency, we are required to charge interest, penalties, and administrative costs on debts owed to us pursuant to 31 U.S.C. 3717 and 31 CFR 901.9, ''Interest, penalties, and administrative costs.''

What else will happen to my past due bill?

If you do not pay your bill or make payment arrangements to which we agree, we are required to send your past due bill to the Treasury for further action. Under the provisions of 31 CFR 901.1, ''Aggressive agency collection activity,'' we must send any unpaid annual irrigation assessment bill to Treasury no later than 180 days after the original due date of the bill.

Who can I contact for further information?

The following tables are the regional and project/agency contacts for our irrigation facilities.

Project name	Project/agency contacts
Northwest Region Contacts	
Stanley Speaks, Regional Director, Bureau of Indian Affairs, Northwest Regional Office, 911 N.E. 11th Avenue, Portland, Oregon 97232–4169, Telephone: (503) 231–6702.	
Flathead Irrigation Project	Chuck Courville, Superintendent, Flathead Agency Irrigation Division, P.O. Box 40, Pablo, MT 59855–0040, Telephone: (406) 675–2700.
Fort Hall Irrigation Project	Eric J. LaPointe, Superintendent, Dean Fox, Deputy Superintendent, Fort Hall Agency, P.O. Box 220, Fort Hall, ID 83203–0220, Telephone: (208) 238–2301.
Wapato Irrigation Project	Pierce Harrison, Project Administrator, Wapato Irrigation Project, P.O. Box 220, Wapato, WA 98951–0220, Telephone: (509) 877–3155.
Rocky Mountain Region Contacts	
Darryl LaCounte, Acting Regional Director, Bureau of Indian Affairs, Rocky Mountain Regional Office, 316 North 26th Street, Billings, Montana 59101, Telephone: (406) 247–7943.	
Blackfeet Irrigation Project	Stephen Pollock, Superintendent, Ted Hall, Irrigation Project Manager, Box 880, Browning, MT 59417, Telephones: (406) 338–7544, Superintendent, (406) 338–7519, Irrigation Project Manager.
Crow Irrigation Project	Judy Gray, Superintendent, Vacant, Irrigation Project Manager, P.O. Box 69, Crow Agency, MT 59022, Telephones: (406) 638–2672, Superintendent, (406) 638–2863, Irrigation Project Manager.
Fort Belknap Irrigation Project	Jim Montes, Acting Superintendent, Vacant, Irrigation Project Manager, (Project operations & management contracted tribes), R.R.1, Box 980, Harlem, MT 59526, Telephones: (406) 353–2901, Superintendent, (406) 353–2905, Irrigation Project Manager.
Fort Peck Irrigation Project	Florence White Eagle, Superintendent, P.O. Box 637, Poplar, MT 59255, Richard Kurtz, Irrigation Manager, 602 6th Avenue North, Wolf Point, MT 59201, Telephones: (406) 768–5312, Superintendent, (406) 653–1752, Irrigation Manager.
Wind River Irrigation Project	Ed Lone Fight, Superintendent, Sheridan Nicholas, Irrigation Project Engineer, P.O. Box 158, Fort Washakie, WY 82514, Telephones: (307) 332–7810, Superintendent, (307) 332–2596, Irrigation Project Manager.
Southwest Region Contacts	
William T. Walker, Acting Regional Director, Bureau of Indian Affairs, Southwest Regional Office, 1001 Indian School Road, Albuquerque, New Mexico 87104, Telephone: (505) 563–3100.	
Pine River Irrigation Project	John Waconda, Superintendent, John Formea, Irrigation Engineer, P.O. Box 315, Ignacio, CO 81137–0315, Telephones: (970) 563–4511, Superintendent, (970) 563–9484, Irrigation Engineer.
Western Region Contacts	
Allen Anspach, Regional Director, Bureau of Indian Affairs, Western Regional Office, Two Arizona Center, 400 N. 5th Street, 12th floor, Phoenix, Arizona 85004, Telephone: (602) 379–6600.	
Colorado River Irrigation Project	Janice Staudte, Superintendent, Ted Henry, Irrigation Project Manager, 12124 1st Avenue, Parker, AZ 85344, Telephone: (928) 669–7111.
Duck Valley Irrigation Project	Joseph McDade, Superintendent, 1555 Shoshone Circle, Elko, NV 89801, Telephone: (775) 738–0569.
Fort Yuma Irrigation Project	Vacant, Superintendent, P.O. Box 11000, Yuma, AZ 85366, Telephone: (520) 782–1202.
San Carlos Irrigation Project Joint Works	Bryan Bowker, Project Manager, Clarence Begay, Irrigation Manager, P.O. Box 250, Coolidge, AZ 85228, Telephone: (520) 723–6203.
San Carlos Irrigation Project Indian Works	Cecilia Martinez, Superintendent, Joe Revak, Supervisory General Engineer, Pima Agency, Land Operations, P.O. Box 8, Sacaton, AZ 85247, Telephone: (520) 562–3326, Telephone: (520) 562–3372.
Uintah Irrigation Project	Daniel Picard, Superintendent, Dale Thomas, Irrigation Manager, P.O. Box 130, Fort Duchesne, UT 84026, Telephone: (435) 722–4300, Telephone: (435) 722–4341.
Walker River Irrigation Project	Athena Brown, Superintendent, 311 E. Washington Street, Carson City, NV 89701, Telephone: (775) 887–3500.

What irrigation assessments or charges are proposed for adjustment by this notice?

The rate table below contains the current rates for all irrigation projects where we recover costs of administering, operating, maintaining, and rehabilitating them. The table also contains the proposed rates for the 2010 season and subsequent years where applicable. An asterisk immediately following the name of the project notes the irrigation projects where rates are proposed for adjustment.

Project name	Rate category	Final 2009 rate	Proposed 2010 rate	Proposed 2011 rate
Northwest Region Rate Table				
Flathead Irrigation Project * (See Note #1)	Basic per acre—A	$23.45	$23.45	$25.45
	Basic per acre—B	10.75	11.75	12.75
	Minimum Charge per tract	65.00	65.00	65.00
Fort Hall Irrigation Project	Basic per acre	40.50	40.50	(1)
	Minimum Charge per tract	30.00	30.00	
Fort Hall Irrigation Project—Minor Units	Basic per acre	21.00	21.00	
	Minimum Charge per tract	30.00	30.00	
Fort Hall Irrigation Project—Michaud	Basic per acre	41.50	41.50	
	Pressure per acre	58.00	58.00	
	Minimum Charge per tract	30.00	30.00	
Wapato Irrigation Project—Toppenish/Simcoe Units.	Minimum Charge for per tract	15.00	15.00	
	Basic per acre	15.00	15.00	
Wapato Irrigation Project—Ahtanum Units	Minimum Charge per tract	15.00	15.00	
	Basic per acre	15.00	15.00	
Wapato Irrigation Project—Satus Unit *	Minimum Charge for per tract	58.00	60.00	
	"A" Basic per acre	58.00	60.00	
	"B" Basic per acre	68.00	70.00	
Wapato Irrigation Project—Additional Works *	Minimum Charge per tract	63.00	65.00	
	Basic per acre	63.00	65.00	
Wapato Irrigation Project—Water Rental *	Minimum Charge	70.00	72.00	
	Basic per acre	70.00	72.00	

[1] To be determined.

Project name	Rate category	Final 2009 rate	Proposed 2010 rate
Rocky Mountain Region Rate Table			
Blackfeet Irrigation Project *	Basic-per acre	$18.00	$19.00
Crow Irrigation Project—Willow Creek O&M (includes Agency, Lodge Grass #1, Lodge Grass #2, Reno, Upper Little Horn, and Forty Mile Units) *.	Basic-per acre	20.80	22.80
Crow Irrigation Project—All Others (includes Bighorn, Soap Creek, and Pryor Units) *.	Basic-per acre	20.50	22.50
Crow Irrigation Two Leggins Drainage District	Basic-per acre	2.00	2.00
Fort Belknap Irrigation Project	Basic-per acre	14.75	14.75
Fort Peck Irrigation Project *	Basic-per acre	24.00	24.70
Wind River Irrigation Project *	Basic-per acre	18.00	20.00
Wind River Irrigation Project—LeClair District *	Basic-per acre	19.00	27.00
Wind River Irrigation Project—CrowHeart Unit *	Basic-per acre	18.00	14.00
Southwest Region Rate Table			
Pine River Irrigation Project	Minimum Charge per tract	$50.00	$50.00
	Basic-per acre	15.00	15.00

Project name	Rate category	Final 2009 rate	Proposed 2010 rate	Proposed 2011 rate
Western Region Rate Table				
Colorado River Irrigation Project * (see Note #3)	Basic per acre up to 5.75 acre-feet	$51.00	$52.50	$54.00
	Excess Water per acre-foot over 5.75 acre-feet	17.00	17.00	(1)
Duck Valley Irrigation Project	Basic per acre	5.30	5.30	
Fort Yuma Irrigation Project * (See Note #2)	Basic per acre up to 5.0 acre-feet	77.00	77.00	
	Excess Water per acre-foot over 5.0 acre-feet	14.00	14.00	
	Basic per acre up to 5.0 acre-feet (Ranch 5)	77.00	77.00	
San Carlos Irrigation Project (Joint Works) (See Note #1).	Basic per acre	21.00	21.00	25.00
San Carlos Irrigation Project (Indian Works)	Basic per acre	57.00	57.00	(1)
Uintah Irrigation Project	Basic per acre	15.00	15.00	
	Minimum Bill	25.00	25.00	
Walker River Irrigation Project * (See Note #3)	Indian per acre	16.00	19.00	22.00
	Non-Indian per acre	16.00	19.00	22.00

* Notes irrigation projects where rates are proposed for adjustment.

Note #1—The 2010 rate was established by final notice published in the **Federal Register** on April 22, 2009 (Vol. 74, No. 76, page 18398). The 2011 rate is to be determined.

Note #2—The O&M rate for the Fort Yuma Irrigation Project has two components. The first component is the O&M rate established by the Bureau of Reclamation (BOR), the owner and operator of the Project. The BOR rate for 2010 is yet to be determined. The second component is for the O&M rate established by BIA to cover administrative costs including billing and collections for the Project. The 2010 BIA rate remains unchanged at $7.00/acre. The rates shown include the 2009 Reclamation rate and the 2010 BIA rate.

Note #3—The 2010 and 2011 rates were established by final notice published in the **Federal Register** on April 22, 2009 (Vol. 74, No. 76, page 18398).

[1] To be determined.

Consultation and Coordination With Tribal Governments (Executive Order 13175)

To fulfill its consultation responsibility to tribes and tribal organizations, BIA communicates, coordinates, and consults on a continuing basis with these entities on issues of water delivery, water availability, and costs of administration, operation, maintenance, and rehabilitation of projects that concern them. This is accomplished at the individual irrigation project by Project, Agency, and Regional representatives, as appropriate, in accordance with local protocol and procedures. This notice is one component of our overall coordination and consultation process to provide notice to, and request comments from, these entities when we adjust irrigation assessment rates.

Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (Executive Order 13211)

The rate adjustments will have no adverse effects on energy supply, distribution, or use (including a shortfall in supply, price increases, and increase use of foreign supplies) should the proposed rate adjustments be implemented. This is a notice for rate adjustments at BIA-owned and operated irrigation projects, except for the Fort Yuma Irrigation Project. The Fort Yuma Irrigation Project is owned and operated by the Bureau of Reclamation with a portion serving the Fort Yuma Reservation.

Regulatory Planning and Review (Executive Order 12866)

These rate adjustments are not a significant regulatory action and do not need to be reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

These rate adjustments are not a rule for the purposes of the Regulatory Flexibility Act because they establish ''a rule of particular applicability relating to rates.'' 5 U.S.C. 601(2).

Unfunded Mandates Reform Act of 1995

These rate adjustments do not impose an unfunded mandate on State, local, or tribal governments in the aggregate, or on the private sector, of more than $130 million per year. The rate adjustments do not have a significant or unique effect on State, local, or tribal governments or the private sector. Therefore, the Department is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

Takings (Executive Order 12630)

The Department has determined that these rate adjustments do not have significant ''takings'' implications. The rate adjustments do not deprive the public, State, or local governments of rights or property.

Federalism (Executive Order 13132)

The Department has determined that these rate adjustments do not have significant Federalism effects because they will not affect the States, the relationship between the national government and the States, or the distribution of power and responsibilities among various levels of government.

Civil Justice Reform (Executive Order 12988)

In issuing this rule, the Department has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988.

Paperwork Reduction Act of 1995

These rate adjustments do not affect the collections of information which have been approved by the Office of Information and Regulatory Affairs, Office of Management and Budget, under the Paperwork Reduction Act of 1995. The OMB Control Number is 1076–0141 and expired August 31, 2009; a request for renewal is pending with OMB. See 74 FR 44867 for more information on the renewal.

National Environmental Policy Act

The Department has determined that these rate adjustments do not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370(d)).

Information Quality Act

In developing this notice, we did not conduct or use a study, experiment, or survey requiring peer review under the Information Quality Act (Pub. L. 106–554).

Dated: October 7, 2009.

Larry Echo Hawk,

Assistant Secretary—Indian Affairs.

[FR Doc. E9–25540 Filed 10–22–09; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act

Notice is hereby given that on October 19, 2009, a proposed Consent Decree in *United States* v. *BASF Corporation,* Civil Action No. 1:09 CV 0914, was lodged with the United States District Court for the Eastern District of Texas.

In this action, the United States sought injunctive relief and civil penalties for violations of the industrial refrigerant repair, record-keeping, and reporting regulations at 40 CFR 82.156 (Recycling and Emission Reduction) promulgated by the Environmental Protection Agency (''EPA'') under Subchapter VI of the Clean Air Act (Stratospheric Ozone Protection), 42 U.S.C. 7671–7671q, at five of BASF's facilities in the United States. The five facilities are located in Livonia, Michigan; South Brunswick and Washington, New Jersey; Greenville, Ohio; and Beaumont, Texas. In the proposed Consent Decree, BASF agrees to (1) retrofit or retire three of its industrial process refrigeration units at its Beaumont, Texas facility and (2) pay a $384,200 penalty to the United States.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment 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 v. *BASF Corporation,* D.J. Ref. 90–5–2–1–08255.

The Consent Decree may be examined at the Office of the United States Attorney, 350 Magnolia Avenue, Beaumont, TX 77701, and at U.S. EPA Region 6, 1445 Ross Avenue, Dallas TX 75202. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, to *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent 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 $9.25 (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 Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E9–25494 Filed 10–22–09; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 07–6]

Samuel H. Albert, M.D.; Dismissal of Proceeding

On October 25, 2006, the Deputy Assistant Administrator, Office of Diversion Control, issued an Order to Show Cause to Samuel H. Albert, M.D. (Respondent), of Fountain Valley, California. ALJ Ex. 1, at 1. The Show Cause Order proposed the denial of Respondent's ''pending application for a DEA Certificate of Registration'' as a practitioner on the grounds that on this application, which he submitted on March 24, 2006, as well as on multiple previous applications for renewal of his previous registration, Respondent had materially falsified his applications by failing to indicate that the Medical Board of California had imposed disciplinary sanctions on his state medical license, which included a revocation which was stayed, a thirty-day suspension, and the imposition of probationary terms. *Id.* at 1–2 (citing 21 U.S.C. 824(a)(1)). The Show Cause Order further alleged that Respondent's previous registration had expired on June 5, 2005, and that thereafter, Respondent had issued approximately 200 controlled substance prescriptions without being registered. *Id.* at 1–2. (citing 21 U.S.C. 822(a)(2), 841(a)(1), 843(a)(2)).

Respondent requested a hearing on the allegations and the matter was assigned to an Administrative Law Judge (ALJ), who conducted a hearing in Los Angeles, California. ALJ Dec. at 3. At the hearing, both parties elicited testimonial evidence and introduced documentary evidence. *Id.* at 3. Following the hearing, both parties filed briefs containing their proposed findings of fact, conclusion of law, and argument.

Thereafter, the ALJ issued her recommended decision. Neither party filed exceptions. The record was then forwarded to me for final agency action.

Upon reviewing the record, I noted that on May 16, 2006, more than five months prior to the issuance of the Order to Show Cause, Respondent submitted a letter to a DEA Field Office in which he requested to withdraw his application to renew his registration. *See* RX C. Under an Agency regulation, ''[a]n application may be amended or withdrawn *without permission* of the Administrator at any time before the date on which the applicant receives an order to show cause.'' 21 CFR 1301.16(a) (emphasis added). Because this regulation plainly did not require that Respondent obtain permission from the Agency for the withdrawal of his application to be effective and it thus appeared that Respondent did not have an application currently pending before the Agency, I ordered the parties to address whether this proceeding is ripe for adjudication.

Thereafter, only the Government filed a brief. Having considered the Government's arguments, I conclude that there is no application currently pending before the Agency and that this case is not ripe for adjudication. Accordingly, the Order to Show Cause must be dismissed.

Findings

Prior to its expiration on June 30, 2005, Respondent held DEA Certificate of Registration, AA0017473, which authorized him to dispense controlled substances in schedules II through V as a practitioner. GX 7. Respondent did not file a renewal application prior to the expiration of his registration. Rather, on or about March 24, 2006, Respondent filed an application. GX 6. The actual application form is not, however, part of the record.[1]

On May 16, 2006, apparently after a conversation with a DEA Diversion Investigator (DI) regarding the application, Respondent submitted a letter to the DI. RX C. The letter's opening paragraph stated: ''The purpose of this letter is to request withdrawal of my recent attempt to obtain an extension and renewal of [my] DEA certificate.'' *Id.* at 1. Later in the letter, Respondent further wrote: ''I request that you permit me to withdraw the current application for renewal, so that I may in the future submit [a] new application for a different DEA certificate number.'' *Id.* at 2.

On October 25, 2006, the Deputy Assistant Administrator, Office of Diversion Control, issued an Order to Show Cause which proposed the denial of Respondent's ''pending application.'' ALJ Ex. 1. On some date not later than November 22, 2006, Respondent received the Order to Show Cause. ALJ Ex. 2.

Discussion

Under a DEA regulation, ''[a]n application may be amended or withdrawn *without permission of the Administrator* at any time before the date on which the applicant receives an order to show cause pursuant to § 1301.37.'' 21 CFR 1301.16(a) (emphasis added). The same regulation further provides that ''[a]n application may be amended or withdrawn with permission of the Administrator at any time where good cause is shown by the applicant or where the amendment or withdrawal is in the public interest.'' *Id.*

As the regulation makes plain, an applicant's receipt of an Order to Show Cause is the operative event in determining whether he must obtain the Agency's permission to withdraw his application. When an applicant seeks to withdraw an application prior to his receipt of the Order to Show Cause, he is entitled to do so as a matter of right.

Respondent's May 2006 letter provides a clear and manifest expression of his intent to withdraw his application. Indeed, it is hard to imagine how Respondent could have made his intent to withdraw any clearer. *See* RX C, at 1 (''The purpose of this letter is to request withdrawal''); *id.* at 2 (''I request that you permit me to withdraw the current application for renewal''). Moreover, because at the time he requested to withdraw, Respondent had not been served with

[1] It appears that Respondent filed the form for a renewal application and not the form for a new application.

the Show Cause Order (and would not be served with the Order for at least another five months), he did not need the Agency's permission to do so. That he erroneously believed he needed the Agency's permission to withdraw does not make his intent to do so any less clear.

The Government nonetheless attempts to create ambiguity out of clarity. In its brief, the Government contends that ''[f]rom the context of [his] letter and the testimony, it is clear that Respondent did not intend his letter to be a withdrawal of his new application.'' Gov. Br. at 3. The Government maintains that this is so because ''[t]he letter was written in response to a request from [the] DI to explain the answers in [Respondent's] past renewal application and his new application.'' *Id.* The Government further contends that Respondent prepared the letter ''under the mistaken belief that the new application was a renewal application and that he needed to file a new application in place of the 'renewal' application.'' *Id.*

The Government also argues that because his counsel requested a hearing on the allegations of the Show Cause Order, ''Respondent has constructively acknowledged that the letter was not a withdrawal of his pending new application for a DEA registration.'' *Id.* The Government further contends that Respondent should ''have moved to clarify his position by clearly asking to withdraw his application.'' *Id.*

The Government's arguments are not persuasive. As for its contention that Respondent testified that he submitted the letter in the mistaken belief that he had submitted the wrong application form, thus implying that Respondent would not have submitted the letter if he had only recognized that he had submitted the correct form, the argument misreads the evidence. Respondent's May 2006 letter made clear enough that the reason he sought to withdraw the application (whether it was filed on the correct form or not) was not because it was filed on the wrong form, but because it contained an ''inadvertent error'' which he sought to correct. RX C, at 1–2. Moreover, even in his testimony on cross-examination, Respondent never asserted that he did not intend to withdraw.[2]

No more persuasive is the Government's contention that because Respondent requested a hearing on the allegations, he constructively acknowledged that the letter was not a withdrawal. The Government ignores that this act occurred approximately six months after Respondent submitted his letter and is hardly indicative of his intent in sending the letter. Moreover, the Government fails to acknowledge that it was the party that filed the Show Cause Order, which proposed to deny what it asserted was his ''pending application'' before the Agency. ALJ 1, at 1. Having been notified by the Government that it was proceeding to adjudicate his still ''pending application,'' and that he had a right to be heard on the allegations, it was reasonable for Respondent to have requested a hearing to defend himself. Respondent's act in requesting a hearing therefore does not negate the clear intent of his letter.

It is true, of course, that Respondent is charged with knowledge of the Agency's regulation. *See Federal Crop. Ins. Corp.* v. *Merrill,* 332 U.S. 380, 384–85 (1947). But so, too, are the Government's personnel including its Investigator (who received the letter), its Counsel, and the ALJ. Moreover, Respondent's withdrawal of his application goes to the subject matter jurisdiction of the Agency, an issue which can and should be raised *sua sponte.* In short, because Respondent withdrew his application, there is nothing to adjudicate. *See, e.g., Ronald J. Riegel,* 63 FR 67132, 67133 (1998).

Finally, the Government contends that it would ''be a futile act to treat [Respondent's letter] as a withdrawal, only to have [him] re-submit the application and have the matter re-litigated.'' Gov. Br. 4. The Government may, of course, choose to relitigate whether Respondent is entitled to be registered in the event he files a new application. But the Government's predicament is entirely of its own making. Having promulgated the regulation, the Government must abide by it.

Moreover, contrary to the Government's understanding, the relevant judicial authority suggests that the issuance of a final order would also ''be a futile act.'' *Id.* It is well settled that where the federal courts cannot review an agency order because of intervening mootness, the court vacates the agency's order. *See A.L. Mechling Barge Lines, Inc.* v. *United States,* 368 U.S. 324, 329 (1961) (vacating administrative orders which had become unreviewable in federal court); *American Family Life Assurance Co.* v. *FCC,* 129 F.3d 625, 630 (D.C. Cir. 1997) (''Since *Mechling,* we have, as a matter of course, vacated agency orders in cases that have become moot by the time of judicial review.'').

This case does not raise a question of mootness, but rather, one of ripeness (as there is no application before the Agency, and indeed, there was no application at the time the case was commenced). Nonetheless, were Respondent to file a petition for review, because of the Article III limits on the judicial power, the court of appeals would likely hold that the case is not justiciable. *See Ohio Forestry Ass'n, Inc.* v. *Sierra Club,* 523 U.S. 726, 732–33 (1998); *see also DaimlerChrysler Corp.* v. *Cuno,* 547 U.S. 332, 352 (2006) (noting that ripeness doctrine ''originate[s] in Article III's 'case' or 'controversy' language''). Having concluded that the case was not

[2] During cross-examination, the following colloquy occurred:

Q. * * * When you wrote the letter, weren't you aware that you were not dealing with a renewal, you're dealing with a new application; is that correct?

A. Well, yes. That's why part of the text of the letter was that [I] realized that what I should do is cancel any application I had, and then make an application for a brand new number, and I thought that the wisest course would be to request permission from the DEA.

Q. But the March 06 was a new application; correct?

A. Well, as it turns out, it was at the time. But I was not thinking quite clearly then.

Q. * * * But by the time you wrote this letter, was your thinking more clear?

A. Well, if you read the last paragraph, you'll see what my thinking was at the time. What I requested was that I wanted to withdraw the application that I wrote down [in the letter] was an application for renewal, although in fact it was an application for a new DEA number. And then I wanted to submit a new application, which shows you that I was not completely aware of what I had done, even when I wrote this letter.

Q. * * * So now you realize that * * * the letter * * * should not have referred to a request for renewal because the March application was a new application?

A. I understand that now.

Tr. 244–45.

Moreover, the Government ignores Respondent's answers to two of the ALJ's questions. When asked ''what is it you think you have pending before the DEA?,'' Respondent answered: ''I believe that what's pending is the DEA's letter to me, which is called an order to show cause, and this I believe is my response to that letter.'' Tr. 269. Noting that her ''question was not very artfully asked,'' the ALJ then asked Respondent: ''[i]n terms of your registration, do you believe you have an application for a new registration pending before the DEA?'' *Id.* Respondent answered:

I do not, and the reason is that I've never received any confirmation from the DEA, that I have any sort of application pending, new or old, or renewal, and therefore I think at the moment, that I do not have a valid DEA number, and I will be trying to obtain one in accordance with whatever techniques there are to obtain them.

Id. at 269–70.

To the extent it is even necessary or appropriate to go beyond the unambiguous text of Respondent's letter in assessing his intent, Respondent's testimony on cross examination fails to establish the Government's contention that he did not intend to withdraw. Moreover, the Government does not explain why Respondent should be deemed to have ''constructively acknowledged'' that his application is still pending when he expressly testified as to his belief that he does not have an application pending before the Agency.

justiciable, the court of appeals would simply vacate the Agency's order. *Cf. Mechling,* 368 U.S. at 329 (applying to unreviewed administrative orders the principle ''that a party should not be concluded in subsequent litigation by a District Court's resolution of issues, when appellate review of the judgment incorporating that resolution, otherwise available as of right, fails because of intervening mootness * * * [T]hat principle should be implemented by the reviewing court's vacating the unreviewed judgment below.''). Thus, contrary to the Government's understanding, it would be pointless to issue a final order which in all likelihood would be vacated by the court of appeals and which would therefore have no preclusive effect.

In conclusion, because Respondent's May 2006 letter clearly manifested his intent to withdraw his application, and the Agency's regulation does not require that he obtain its permission to do so, I hold that there is no application currently before the Agency. Accordingly, the Order to Show Cause must be dismissed.

It is so ordered.

Dated: October 15, 2009.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E9–25480 Filed 10–22–09; 8:45 am]

BILLING CODE 4410–09–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (09–092)]

Performance Review Board, Senior Executive Service (SES)

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of Membership of SES Performance Review Board.

SUMMARY: The Civil Service Reform Act of 1978, Public Law 95–454 (Section 405) requires that appointments of individual members to a Performance Review Board (PRB) be published in the **Federal Register**.

The performance review function for the SES in NASA is being performed by the NASA PRB and the NASA Senior Executive Committee. The latter performs this function for senior executives who report directly to the Administrator or the Deputy Administrator and members of the PRB. The following individuals are serving on the Board and the Committee:

Performance Review Board

Chairperson, Associate Administrator, NASA Headquarters.
Executive Secretary, Director, Workforce Management and Development Division, NASA Headquarters.
Associate Deputy Administrator, NASA Headquarters.
Associate Administrator for Exploration Systems Mission Directorate, NASA Headquarters.
Associate Administrator for Space Operations Mission Directorate, NASA Headquarters.
Associate Administrator for Science Mission Directorate, NASA Headquarters.
Associate Administrator for Aeronautics Research Mission Directorate, NASA Headquarters.
Associate Administrator for Institutions and Management, NASA Headquarters.
Assistant Administrator for Diversity and Equal Opportunity, NASA Headquarters.
Assistant Administrator for Human Capital Management, NASA Headquarters.
Associate Administrator for Program Analysis and Evaluation, NASA Headquarters.
Chief Engineer, NASA Headquarters.
General Counsel, NASA Headquarters.
Director, Ames Research Center.
Director, Dryden Flight Research Center.
Director, Glenn Research Center.
Director, Goddard Space Flight Center.
Director, Johnson Space Center.
Director, Kennedy Space Center.
Director, Langley Research Center.
Director, Marshall Space Flight Center.
Director, Stennis Space Center.

Senior Executive Committee

Chairperson, Deputy Administrator, NASA Headquarters.
Chair, Executive Resources Board, NASA Headquarters.
Chair, NASA Performance Review Board, NASA Headquarters.
Chief of Staff, NASA Headquarters.
Associate Deputy Administrator, NASA Headquarters.
Chief, Safety and Mission Assurance, NASA Headquarters.

Charles F. Bolden, Jr.,

Administrator.

[FR Doc. E9–25579 Filed 10–22–09; 8:45 am]

BILLING CODE P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

Name: Site visit review of the Materials Research Science and Engineering Center (MRSEC) at The Ohio State University by NSF Division of Materials Research (DMR) #1203.

Date and Time: Friday, November 13, 2009; 8:30 a.m.–4 p.m.

Place: The Ohio State University, Columbus, OH.

Type of Meeting: Part-open.

Contact Person: Dr. Charles Ying, Program Director, Materials Research Science and Engineering Centers Program, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–8428.

Purpose of Meeting: To provide advice and recommendations concerning progress of the MRSEC at The Ohio State University.

Agenda: Friday, November 13, 2009

8:30 a.m.–2 p.m.

OPEN—Review of Ohio State University, MRSEC.

2 p.m.–4 p.m.

CLOSED—Executive Session.

Reason for Closing: The work being reviewed may include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 20, 2009.

Susanne Bolton,

Committee Management Officer.

[FR Doc. E9–25504 Filed 10–22–09; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Physics; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Proposal Review Panel for Physics, Stony Brook Site Visit in Physics (#1208).

Date and Time: Thursday, November 19, 2009; 8:30 a.m.–6:30 p.m. Friday, November 20, 2009: 8:30 a.m.–1:00 p.m.

Place: Room 1020, NSF, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Partially Closed.

Contact Person: Dr. David Lissauer, Program Director for Elementary Particle Physics, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–7061.

Purpose of Meeting: To provide an evaluation concerning the proposal submitted to the National Science Foundation.

Agenda

Thursday. November 19, 2009

Closed—8:30 a.m.–9:15 a.m. Executive Session.
Open—9:15 a.m.–12:30 p.m. Atlas Discussion.
Closed—12:30 p.m.–1:30 p.m. Meeting with Students and Post Docs.
Open—1:30 p.m.–5 p.m. Atlas and D Zero Presentations.
Closed—5 p.m.–6:30 p.m. Executive Session.

Friday, November 20, 2009

Closed—8:30 a.m.–9 a.m. Executive Session.
Open—9 a.m.–11 a.m. Facilities Tour and Outreach D Zero Presentations.
Closed—11 a.m.–1 p.m. Executive Session.

Reason for Closing: The proposal contains proprietary or confidential material including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) and (6) of the Government in the Sunshine Act.

Dated: October 20, 2009.

Susanne Bolton,

Committee Management Officer.

[FR Doc. E9–25505 Filed 10–22–09; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (Pub. L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by November 23, 2009. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy at the above address or (703) 292–7405.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

The applications received are as follows:

Permit Application No. 2010–018

1. *Applicant:* Elise Engler, 262 West 107th Street, # 5A, New York, NY 10025.

Activity for Which Permit Is Requested

Enter Antarctic Specially Protected Areas. The applicant is a participant in the U.S. Antarctic Programs Artists and Writers Program and plans to enter Cape Royds (ASPA 121), Backdoor Bay, Cape Royds (ASPA 157), and Cape Crozier (ASPA 124) to photograph contents of the historic hut and scientists working in penguin rookeries. With this photo documentation she will construct drawing of scientific equipment, clothing, living conditions and scientific experiments to allow the viewer to compare objects that provide the means of staying warm, cooking, traveling, and collecting data from the turn of the century and the ''Heroic Age'' of Antarctic exploration to present times.

Location

Cape Royds (ASPA 121), Backdoor Bay, Cape Royds (ASPA 157), and Cape Crozier (ASPA 124).

Dates

December 15, 2009 to February 15, 2010.

Permit Application No. 2010–020

2. *Applicant:* Bill J. Baker, Department of Chemistry, University of South Florida, Tampa, FL 33620.

Activity for Which Permit Is Requested

Export from the U.S.A. and Introduce into Antarctica. The applicant proposes to export from the U.S.A. HepG2–EcR cells to be used in experiments at McMurdo Station, Antarctica. The HepG2–EcR cells are specialized human liver cells with a plasmid inserted that acts as a receptor for ecdysone, a natural hormone that regulates molting in arthropods. Assays will be conducted to test naturally occurring chemical compounds from marine organisms, such as sponges and tunicates for their molting activity.

Location

Palmer Station, Anvers Island, Antarctic Peninsula.

Dates

February 15, 2010 to June 15, 2010.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. E9–25529 Filed 10–22–09; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–272 and 50–311; NRC–2009–0390]

Notice of Acceptance for Docketing of the Application and Notice of Opportunity for Hearing Regarding Renewal of Facility Operating License Nos. DPR–70 and DPR–75 for an Additional 20-Year Period; PSEG Nuclear LLC, Salem Nuclear Generating Station, Units 1 and 2

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering an application for the renewal of Operating Licenses DPR–70 and DPR–75, which authorizes PSEG Nuclear LLC (the applicant), to operate the Salem Nuclear Generating Station (SALEM), Units 1 and 2, at 3459 megawatts thermal each. The renewed license would authorize the applicant to operate SALEM, Units 1 and 2, for an additional 20 years beyond the period specified in the current license. SALEM, Units 1 and 2, are located approximately 18 miles southeast of Wilmington, DE. The current operating license for SALEM, Unit 1, expires on August 13, 2016, and the current operating license for SALEM, Unit 2, expires on April 18, 2020.

PSEG Nuclear LLC submitted the application dated August 18, 2009, pursuant to Title 10 of the *Code of Federal Regulations,* Part 54 (10 CFR Part 54), to renew Operating License DPR–70 and DPR–75. A notice of receipt and availability of the license renewal application (LRA) was published in the **Federal Register** on September 8, 2009 (74 FR 46238).

The Commission's staff has determined that PSEG Nuclear LLC has submitted sufficient information in accordance with 10 CFR Sections 2.101, 54.19, 54.21, 54.22, 54.23, 51.45, and 51.53(c), to enable the staff to undertake a review of the application, and the application is therefore acceptable for

docketing. The current Docket Nos. 50–272 and 50–311, for Operating Licenses DPR–70 and DPR–75, will be retained. The determination to accept the LRA for docketing does not constitute a determination that a renewed license should be issued, and does not preclude the NRC staff from requesting additional information as the review proceeds.

Before issuance of the requested renewed license, the NRC will have made the findings required by the Atomic Energy Act of 1954 (the Act), as amended, and the Commission's rules and regulations. In accordance with 10 CFR 54.29, the NRC may issue a renewed license on the basis of its review if it finds that actions have been identified and have been or will be taken with respect to: (1) Managing the effects of aging during the period of extended operation on the functionality of structures and components that have been identified as requiring aging management review; and (2) time-limited aging analyses that have been identified as requiring review, such that there is reasonable assurance that the activities authorized by the renewed license will continue to be conducted in accordance with the current licensing basis (CLB), and that any changes made to the plant's CLB will comply with the Act and the Commission's regulations.

Additionally, in accordance with 10 CFR 51.95(c), the NRC will prepare an environmental impact statement that is a supplement to the Commission's NUREG–1437, ''Generic Environmental Impact Statement for License Renewal of Nuclear Power Plants,'' dated May 1996. In considering the LRA, the Commission must find that the applicable requirements of Subpart A of 10 CFR Part 51 have been satisfied, and that matters raised under 10 CFR 2.335 have been addressed. Pursuant to 10 CFR 51.26, and as part of the environmental scoping process, the staff intends to hold public scoping meetings. Detailed information regarding the environmental scoping meetings will be the subject of a separate **Federal Register** notice.

Within 60 days after the date of publication of this **Federal Register** notice, any person 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 with respect to the renewal of the license. Requests for a hearing or petitions for leave to intervene must be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders'' in 10 CFR Part 2. Interested persons 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, 11555 Rockville Pike (first floor), Rockville, Maryland 20852 and is accessible from the NRC's Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to the Internet or who encounter problems in accessing the documents located in ADAMS should contact the NRC's PDR reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by e-mail at *PDR.Resource@nrc.gov*. If a request for a hearing/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 Panel will issue a notice of a hearing or an appropriate order. In the event that no request for a hearing or petition for leave to intervene is filed within the 60-day period, the NRC may, upon completion of its evaluations and upon making the findings required under 10 CFR Parts 51 and 54, renew the license without further notice.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding, taking into consideration the limited scope of matters that may be considered pursuant to 10 CFR Parts 51 and 54. The petition must specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (3) 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 set forth the specific contentions which 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 requestor/petitioner shall provide a brief explanation of the bases of each contention and a concise statement of the alleged facts or the expert opinion that supports the contention on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the requestor/petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The requestor/petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact.[1] Contentions shall be limited to matters within the scope of the action under consideration. The contention must be one that, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

The Commission requests that each contention be given a separate numeric or alpha designation within one of the following groups: (1) Technical (primarily related to safety concerns); (2) environmental; or (3) miscellaneous.

As specified in 10 CFR 2.309, if two or more requestors/petitioners seek to co-sponsor a contention or propose substantially the same contention, the requestors/petitioners will be required to jointly designate a representative who shall have the authority to act for the requestors/petitioners with respect to that contention.

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. A request for hearing or a petition for leave to intervene must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in the **Federal Register** on August 28, 2007 (72 FR 49139). The E-Filing process requires participants to submit and serve 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 a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least five (5) days prior to the filing deadline, the petitioner/requestor must contact the Office of the Secretary by e-mail at

[1] If the application contains attachments and supporting documents that are not publicly available because they are asserted to contain safeguards or proprietary information, petitioners desiring access to this information should contact the applicant or applicant's counsel to discuss the need for a protective order.

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 Meta-System Help Desk, which is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays. The Meta-System Help Desk can be contacted by telephone at 1–866–672–7640 or by e-mail at *MSHD.Resource@nrc.gov*.

Participants who believe that they have a good cause for not submitting documents electronically must file a motion, 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. 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 submission.

Detailed information about the license renewal process can be found under the Nuclear Reactors icon at *http://www.nrc.gov/reactors/operating/licensing/renewal.html* on the NRC's Web site. Copies of the application to renew the operating license for SALEM, Units 1 and 2, 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, and at *http://www.nrc.gov/reactors/operating/licensing/renewal/applications.html*, the NRC's Web site while the application is under review. The application may be accessed in ADAMS through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html* under ADAMS Accession Number ML092430232. As stated above, persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS may contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *PDR.Resource@nrc.gov*.

The NRC staff has verified that a copy of the license renewal application is also available to local residents near the site at the Salem Free Library, 112 West Broadway, Salem, New Jersey 08079.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 15th day of October, 2009.

Samson S. Lee,

Deputy Director, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. E9–25532 Filed 10–22–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–354; NRC–2009–0391]

Notice of Acceptance for Docketing of the Application and Notice of Opportunity for Hearing Regarding Renewal of Facility Operating License No. NPF–57 for an Additional 20-Year Period; PSEG Nuclear LLC Hope Creek Generating Station, Unit 1

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering an application for the renewal of Operating License NPF–57, which authorizes PSEG Nuclear LLC (the applicant), to operate the Hope Creek Generating Station, Unit 1 (HCGS), at 3840 megawatts thermal. The renewed license would authorize the applicant to operate HCGS for an additional 20 years beyond the period specified in the current license. HCGS is located approximately 18 miles southeast of Wilmington, DE. The

current operating license for HCGS expires on April 11, 2026.

PSEG Nuclear LLC submitted the application dated August 18, 2009, pursuant to Title 10 of the *Code of Federal Regulations,* Part 54 (10 CFR part 54), to renew Operating License NPF–57. A notice of receipt and availability of the license renewal application (LRA) was published in the **Federal Register** on September 8, 2009 (74 FR 46238).

The Commission's staff has determined that PSEG Nuclear LLC has submitted sufficient information in accordance with 10 CFR Sections 2.101, 54.19, 54.21, 54.22, 54.23, 51.45, and 51.53(c), to enable the staff to undertake a review of the application, and the application is therefore acceptable for docketing. The current Docket No. 50–354, for Operating License NPF–57, will be retained. The determination to accept the LRA for docketing does not constitute a determination that a renewed license should be issued, and does not preclude the NRC staff from requesting additional information as the review proceeds.

Before issuance of the requested renewed license, the NRC will have made the findings required by the Atomic Energy Act of 1954 (the Act), as amended, and the Commission's rules and regulations. In accordance with 10 CFR 54.29, the NRC may issue a renewed license on the basis of its review if it finds that actions have been identified and have been or will be taken with respect to: (1) Managing the effects of aging during the period of extended operation on the functionality of structures and components that have been identified as requiring aging management review; and (2) time-limited aging analyses that have been identified as requiring review, such that there is reasonable assurance that the activities authorized by the renewed license will continue to be conducted in accordance with the current licensing basis (CLB), and that any changes made to the plant's CLB will comply with the Act and the Commission's regulations.

Additionally, in accordance with 10 CFR 51.95(c), the NRC will prepare an environmental impact statement that is a supplement to the Commission's NUREG–1437, ''Generic Environmental Impact Statement for License Renewal of Nuclear Power Plants,'' dated May 1996. In considering the LRA, the Commission must find that the applicable requirements of Subpart A of 10 CFR Part 51 have been satisfied, and that matters raised under 10 CFR 2.335 have been addressed. Pursuant to 10 CFR 51.26, and as part of the environmental scoping process, the staff intends to hold public scoping meetings. Detailed information regarding the environmental scoping meetings will be the subject of a separate **Federal Register** notice.

Within 60 days after the date of publication of this **Federal Register** notice, any person 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 with respect to the renewal of the license. Requests for a hearing or petitions for leave to intervene must be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders'' in 10 CFR part 2. Interested persons 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, 11555 Rockville Pike (first floor), Rockville, Maryland 20852 and is accessible from the NRC's Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to the Internet or who encounter problems in accessing the documents located in ADAMS should contact the NRC's PDR reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by e-mail at *PDR.Resource@nrc.gov.* If a request for a hearing/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 Panel will issue a notice of a hearing or an appropriate order. In the event that no request for a hearing or petition for leave to intervene is filed within the 60-day period, the NRC may, upon completion of its evaluations and upon making the findings required under 10 CFR parts 51 and 54, renew the license without further notice.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding, taking into consideration the limited scope of matters that may be considered pursuant to 10 CFR parts 51 and 54. The petition must specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (3) 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 set forth the specific contentions which 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 requestor/petitioner shall provide a brief explanation of the bases of each contention and a concise statement of the alleged facts or the expert opinion that supports the contention on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the requestor/petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The requestor/petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact.[1] Contentions shall be limited to matters within the scope of the action under consideration. The contention must be one that, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

The Commission requests that each contention be given a separate numeric or alpha designation within one of the following groups: (1) Technical (primarily related to safety concerns); (2) environmental; or (3) miscellaneous.

As specified in 10 CFR 2.309, if two or more requestors/petitioners seek to co-sponsor a contention or propose substantially the same contention, the requestors/petitioners will be required to jointly designate a representative who shall have the authority to act for the requestors/petitioners with respect to that contention.

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

[1] If the application contains attachments and supporting documents that are not publicly available because they are asserted to contain safeguards or proprietary information, petitioners desiring access to this information should contact the applicant or applicant's counsel to discuss the need for a protective order.

participate fully in the conduct of the hearing. A request for hearing or a petition for leave to intervene must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in the **Federal Register** on August 28, 2007 (72 FR 49139). The E-Filing process requires participants to submit and serve 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 a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least five (5) 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 Meta-System Help Desk, which is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays. The Meta-System Help Desk can be contacted by telephone at 1–866–672–7640 or by e-mail at *MSHD.Resource@nrc.gov*.

Participants who believe that they have a good cause for not submitting documents electronically must file a motion, 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. 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 submission.

Detailed information about the license renewal process can be found under the Nuclear Reactors icon at *http://www.nrc.gov/reactors/operating/licensing/renewal.html* on the NRC's Web site. Copies of the application to renew the operating license for HCGS 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, and at *http://www.nrc.gov/reactors/operating/licensing/renewal/applications.html*, the NRC's Web site while the application is under review. The application may be accessed in ADAMS through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html* under ADAMS Accession Number ML092430376. As stated above, persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS may contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *PDR.Resource@nrc.gov*.

The NRC staff has verified that a copy of the license renewal application is also available to local residents near the site at the Salem Free Library, 112 West Broadway, Salem, New Jersey 08079.

Dated at Rockville, Maryland, this 15th day of October, 2009.

For The Nuclear Regulatory Commission.

Samson S. Lee,

Deputy Director, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. E9–25533 Filed 10–22–09; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–272, 50–311, and 50–354; NRC–2009–0390 and NRC–2009–0391]

PSEG Nuclear, LLC; Notice of Intent To Prepare an Environmental Impact Statement and Conduct the Scoping Process for Salem Nuclear Generating Station, Units 1 and 2, and Hope Creek Generating Station

PSEG Nuclear, LLC (PSEG Nuclear) has submitted applications for renewal of Facility Operating License Nos. DPR–70, DPR–75, and NPF–57 for an additional 20 years of operation at the Salem Nuclear Generating Station, Units 1 and 2 (SALEM) and Hope Creek Generating Station (HCGS). SALEM and HCGS are located in Salem County, New Jersey, approximately 8 miles southwest of Salem city limits.

The current operating licenses for SALEM, Units 1 and 2, and HCGS expire on August 13, 2016, April 18, 2020, and April 11, 2026, respectively. The applications for renewal, dated August 18, 2009, were submitted pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 54. A separate notice of receipt and availability of the applications, which included the environmental reports (ERs), was published in the **Federal Register** on September 8, 2009 (74 FR 46238). A notice of acceptance for docketing of the applications and opportunity for hearing regarding renewal of the facility operating licenses is also being published in the **Federal Register.** The purpose of this notice is to inform the public that the U.S. Nuclear Regulatory Commission (NRC) will be preparing an environmental impact statement (EIS) related to the review of the license renewal applications and to provide the public an opportunity to participate in the environmental scoping process, as defined in 10 CFR 51.29. In addition, as outlined in 36 CFR 800.8, ''Coordination with the National Environmental Policy Act,'' the NRC plans to coordinate compliance with Section 106 of the National Historic Preservation Act in meeting the requirements of the National Environmental Policy Act of 1969 (NEPA).

In accordance with 10 CFR 51.53(c) and 10 CFR 54.23, PSEG Nuclear submitted the ERs as part of the applications. The ERs were prepared pursuant to 10 CFR Part 51 and are publicly available at the NRC Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, or from the NRC's Agencywide Documents Access and Management System (ADAMS). The ADAMS Public Electronic Reading Room is accessible at *http://adamswebsearch.nrc.gov/dologin.htm.* The ADAMS accession number for the SALEM and HCGS ERs are ML092430232 and ML092430376, respectively. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC's PDR reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr.resource@nrc.gov.* The SALEM and HCGS ERs may also be viewed on the Internet at *http://www.nrc.gov/reactors/operating/licensing/renewal/applications/salem.html* and *http://www.nrc.gov/reactors/operating/licensing/renewal/applications/hope-creek.html.*

This notice advises the public that the NRC intends to gather the information necessary to prepare a plant-specific supplement to the Commission's ''Generic Environmental Impact Statement (GEIS) for License Renewal of Nuclear Plants,'' (NUREG–1437) related to the review of the applications for renewal of the SALEM and HCGS operating licenses for an additional 20 years. Possible alternatives to the proposed action (license renewal) include no action and reasonable alternative energy sources. The NRC is required by 10 CFR 51.95 to prepare a supplement to the GEIS in connection with the renewal of an operating license. This notice is being published in accordance with NEPA and the NRC's regulations found in 10 CFR Part 51.

The NRC will first conduct a scoping process for the supplement to the GEIS and, as soon as practicable thereafter, will prepare a draft supplement to the GEIS for public comment. Participation in the scoping process by members of the public and local, State, Tribal, and Federal government agencies is encouraged. The scoping process for the supplement to the GEIS will be used to accomplish the following:

a. Define the proposed action which is to be the subject of the supplement to the GEIS.

b. Determine the scope of the supplement to the GEIS and identify the significant issues to be analyzed in depth.

c. Identify and eliminate from detailed study those issues that are peripheral or that are not significant.

d. Identify any environmental assessments and other ElSs that are being or will be prepared that are related to, but are not part of, the scope of the supplement to the GEIS being considered.

e. Identify other environmental review and consultation requirements related to the proposed action.

f. Indicate the relationship between the timing of the preparation of the environmental analyses and the Commission's tentative planning and decision-making schedule.

g. Identify any cooperating agencies and, as appropriate, allocate assignments for preparation and schedules for completing the supplement to the GEIS to the NRC and any cooperating agencies.

h. Describe how the supplement to the GEIS will be prepared, and include any contractor assistance to be used.

The NRC invites the following entities to participate in scoping:

a. The applicant, PSEG Nuclear.

b. Any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved, or that is authorized to develop and enforce relevant environmental standards.

c. Affected State and local government agencies, including those authorized to develop and enforce relevant environmental standards.

d. Any affected Indian tribe.

e. Any person who requests or has requested an opportunity to participate in the scoping process.

f. Any person who has petitioned or intends to petition for leave to intervene.

In accordance with 10 CFR 51.26, the scoping process for an EIS may include a public scoping meeting to help identify significant issues related to a proposed activity and to determine the scope of issues to be addressed in an EIS. The NRC has decided to hold public meetings for the SALEM and HCGS license renewal supplement to the GEIS. The scoping meetings will be held on November 5, 2009, and there will be two sessions to accommodate interested parties. The first session will convene at 1 p.m. and will continue until 4 p.m. The second session will convene at 7 p.m. with a repeat of the overview portions of the meeting and will continue until 10 p.m., as necessary. Both sessions will be held at the Salem County Emergency Services Building, 135 Cemetery Road, Woodstown, New Jersey 08098. Both meetings will be transcribed and will include: (1) An overview by the NRC staff of the NEPA environmental review process, the proposed scope of the supplement to the GEIS, and the proposed review schedule; and (2) the opportunity for interested government agencies, organizations, and individuals to submit comments or suggestions on the environmental issues or the

proposed scope of the supplement to the GEIS. Additionally, the NRC staff will host informal discussions one hour prior to the start of each session at the same location. No formal comments on the proposed scope of the supplement to the GEIS will be accepted during the informal discussions. To be considered, comments must be provided either at the transcribed public meetings or in writing, as discussed below. Persons may register to attend or present oral comments at the meetings on the scope of the NEPA review by contacting the NRC Project Manager, Charles Eccleston, by telephone at 1–800–368–5642, extension 8537 or by e-mail at *Charles.Eccleston@nrc.gov* no later than October 29, 2009. Members of the public may also register to speak at the meeting within 15 minutes of the start of each session. Individual oral comments may be limited by the time available, depending on the number of persons who register. Members of the public who have not registered may also have an opportunity to speak, if time permits. Public comments will be considered in the scoping process for the supplement to the GEIS. Mr. Eccleston will need to be contacted no later than October 29, 2009, if special equipment or accommodations are needed to attend or present information at the public meeting, so that the NRC staff can determine whether the request can be accommodated.

Members of the public may send written comments on the environmental scope of the SALEM and HCGS license renewal review to: Chief, Rulemaking and Directives Branch, Division of Administrative Services, Office of Administration, Mailstop TWB 5B–01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. To be considered in the scoping process, written comments should be postmarked by December 21, 2009. Electronic comments may be sent by e-mail to the NRC at *SalemEIS@nrc.gov* or *HopeCreekEIS@nrc.gov*, and should be sent no later than December 21, 2009, to be considered in the scoping process. Comments will be available electronically and accessible through ADAMS at *http://adamswebsearch.nrc.gov/dologin.htm*.

Participation in the scoping process for the supplement to the GEIS does not entitle participants to become parties to the proceeding to which the supplement to the GEIS relates. Matters related to participation in any hearing are outside the scope of matters to be discussed at this public meeting.

Dated at Rockville, Maryland, this 15th day of October, 2009.

For the Nuclear Regulatory Commission.

Bo M. Pham,

Chief, Projects Branch 1, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. E9–25535 Filed 10–22–09; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request for Review of a Revised Information Collection: (OMB Control No. 3206–0099; Form RI 25–41)

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget (OMB) a request for review of a revised information collection. This information collection, ''Initial Certification of Full-Time School Attendance'' (OMB Control No. 3206–0099; Form RI 25–41), is used to determine whether a child is unmarried and a full-time student in a recognized school. OPM must determine this in order to pay survivor annuity benefits to children who are age 18 or older.

We estimate 1,200 certifications will be processed annually. It takes approximately 90 minutes to complete the form. The estimated annual burden is 1,800 hours.

For copies of this proposal, contact Cyrus S. Benson on (202) 606–4808, FAX (202) 606–0910 or via E-mail to *Cyrus.Benson@opm.gov.* Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—

James K. Freiert, Deputy Assistant Director, Retirement Services Program, Center for Retirement and Insurance Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3305, Washington, DC 20415–3500.

and

OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., 725 17th Street, NW., Room 10235, Washington, DC 20503.

For information regarding administrative coordination contact:

Cyrus S. Benson, Team Leader, Publications Team, RIS Support Services/Support Group, U.S. Office of Personnel Management, 1900 E Street, NW., Room 4H28, Washington, DC 20415, (202) 606–0623.

Office of Personnel Management.

John Berry,

Director.

[FR Doc. E9–25523 Filed 10–22–09; 8:45 am]

BILLING CODE 6325–38–P

SECURITIES AND EXCHANGE COMMISSION

[Rule 15c3–4; SEC File No. 270–441; OMB Control No. 3235–0497]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

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 collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 15c3–4 (17 CFR 240.15c3–4) (the ''Rule'') under the Securities Exchange Act of 1934 (17 U.S.C. 78a *et seq.*) (the ''Exchange Act'') requires certain broker-dealers that are registered with the Commission as OTC derivatives dealers to establish, document, and maintain a system of internal risk management controls. The Rule sets forth the basic elements for an OTC derivatives dealer to consider and include when establishing, documenting, and reviewing its internal risk management control system, which are designed to, among other things, ensure the integrity of an OTC derivatives dealer's risk measurement, monitoring, and management process, to clarify accountability at the appropriate organizational level, and to define the permitted scope of the dealer's activities and level of risk. The Rule also requires that management of an OTC derivatives dealer must periodically review, in accordance with written procedures, the OTC derivatives dealer's business activities for consistency with its risk management guidelines.

The staff estimates that the average amount of time a new OTC derivatives dealer will spend establishing and documenting its risk management control system is 2,000 hours and that, on average, a registered OTC derivatives dealer will spend approximately 200 hours each year to maintain (*e.g.*, reviewing and updating) its risk management control system. Currently, four firms are registered with the Commission as OTC derivatives dealers. The staff estimates that approximately one additional OTC derivatives dealer may become registered within the next three years. Accordingly, the staff estimates that the total annualized burden associated with Rule 15c3–4 for five OTC derivatives dealers will be approximately 1,567 hours annually.[1]

The staff believes that the cost of complying with Rule 15c3–4 will be approximately $258 per hour.[2] This per hour cost is based upon the annual average hourly salary for a compliance manager, who would generally be responsible for initially establishing, documenting, and maintaining an OTC derivatives dealer's internal risk management control system. Accordingly, the total annualized cost for all affected OTC derivatives dealers is estimated to be $404,200.[3]

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 will 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 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, Virginia 22312 or send an e-mail to: *PRA_Mailbox@sec.gov*.

Dated: October 19, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–25482 Filed 10–22–09; 8:45 am]

BILLING CODE 8011–01–P

[1] ((One new OTC derivatives dealer × 2,000 hours to establish and document its internal risk management control system) + (One new OTC derivatives dealer × 200 hours to maintain an internal risk management control system × (3 years/2)) + (Four registered OTC derivatives dealers × 200 hours to maintain an internal risk management control system × 3 years))/3 years = 1,567 hours.

[2] The $258 per hour salary figure for a Compliance Manager is from SIFMA's Management & Professional Earnings in the Securities Industry 2008, modified by Commission staff to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

[3] 1,567 hours × $258 = $404,200.

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: U.S. Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 17i–3, SEC File No. 270–529, OMB Control No. 3235–0593.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 [1] the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget requests for extension of the previously approved collections of information discussed below. The Code of Federal Regulations citation to this collection of information is the following: 17 CFR 240.17i–3.

Section 231 of the Gramm-Leach-Bliley Act of 1999 [2] (the ''GLBA'') amended Section 17 of the Securities Exchange Act of 1934 to create a regulatory framework under which a holding company of a broker-dealer (''investment bank holding company'' or ''IBHC'') may voluntarily be supervised by the Commission as a supervised investment bank holding company (or ''SIBHC'').[3] In 2004, the Commission promulgated rules, including Rule 17i–3, to create a framework for the Commission to supervise SIBHCs.[4] This framework includes qualification criteria for SIBHCs, as well as recordkeeping and reporting requirements. Among other things, this regulatory framework for SIBHCs is intended to provide a basis for non-U.S. financial regulators to treat the Commission as the principal U.S. consolidated, home-country supervisor for SIBHCs and their affiliated broker-dealers.[5]

Rule 17i–3 permits an SIBHC to withdraw from Commission supervision by filing a notice of withdrawal with the Commission. The Rule requires that an SIBHC include in its notice of withdrawal a statement that it is in compliance with Rule 17i–2(c) regarding amendments to its Notice of Intention to help to assure that the Commission has updated information when considering the SIBHC's withdrawal request.

The collection of information required by Rule 17i–3 is necessary to enable the Commission to evaluate whether it is necessary and appropriate in the furtherance of Section 17 of the Exchange Act for the Commission to allow an SIBHC to withdraw from supervision. Without this information, the Commission would be unable to make this evaluation.

We estimate, for Paperwork Reduction Act purposes only, that one SIBHC may wish to withdraw from Commission supervision as an SIBHC over a ten-year period. Each SIBHC that withdraws from Commission supervision as an SIBHC will require approximately 24 hours to draft a withdrawal notice and submit it to the Commission. An SIBHC likely would have an attorney perform this task. Further, an SIBHC likely will have a senior attorney or executive officer review the notice of withdrawal before submitting it to the Commission, which will take approximately eight hours. Thus, we estimate that the annual, aggregate burden of withdrawing from Commission supervision as an SIBHC will be approximately 3.2 hours each year.[6]

Written 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 will 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 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, Virginia 22312 or send an e-mail to: *PRA_Mailbox@sec.gov.*

[1] 44 U.S.C. 3501 *et seq.*

[2] Public Law No. 106–102, 113 Stat. 1338 (1999).

[3] *See* 15 U.S.C. 78q(i).

[4] *See* Exchange Act Release No. 49831 (Jun. 8, 2004), 69 FR 34472 (Jun. 21, 2004).

[5] *See* H.R. Conf. Rep. No. 106–434, 165 (1999). See also Exchange Act Release No. 49831, at 6 (Jun. 8, 2004), 69 FR 34472, at 34473 (Jun. 21, 2004).

[6] (1 SIBHC/every 10 years) × (24 hours to draft + 8 hours to review) = 3.2 hours.

October 19, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–25483 Filed 10–22–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: U.S. Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 17i–4, SEC File No. 270–530, OMB Control No. 3235–0594.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 [1] the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget requests for extension of the previously approved collections of information discussed below. The Code of Federal Regulations citation to this collection of information is the following: 17 CFR 240.17i–4.

Section 231 of the Gramm-Leach-Bliley Act of 1999 [2] (the ''GLBA'') amended Section 17 of the Securities Exchange Act of 1934 to create a regulatory framework under which a holding company of a broker-dealer (''investment bank holding company'' or ''IBHC'') may voluntarily be supervised by the Commission as a supervised investment bank holding company (or ''SIBHC'').[3] In 2004, the Commission promulgated rules, including Rule 17i–4, to create a framework for the Commission to supervise SIBHCs.[4] This framework includes qualification criteria for SIBHCs, as well as recordkeeping and reporting requirements. Among other things, this regulatory framework for SIBHCs is intended to provide a basis for non-U.S. financial regulators to treat the Commission as the principal U.S. consolidated, home-country supervisor for SIBHCs and their affiliated broker-dealers.[5]

Rule 17i–4 requires an SIBHC to comply with present Exchange Act Rule 15c3–4 [6] as though it were a broker-dealer, which requires that the firm establish, document and maintain a system of internal risk management controls to assist it in managing the risks associated with its business activities (including market, credit, operational, funding, and legal risks). In addition, Rule 17i–4 requires that an SIBHC establish, document, and maintain procedures for the detection and prevention of money laundering and terrorist financing as part of its internal risk management control system. Finally, Rule 17i–4 requires that an SIBHC periodically review its internal risk management control system for integrity of the risk measurement, monitoring, and management process, and accountability, at the appropriate organizational level, for defining the permitted scope of activity and level of risk. The records required to be created pursuant to Rule 17i–4 must be preserved for a period of not less than three years.[7]

The collection of information required pursuant to Rule 17i–4 is needed so that the Commission can adequately supervise the activities of these SIBHCs, and to allow the Commission to effectively determine whether supervision of an IBHC as an SIBHC is necessary or appropriate in furtherance of the purposes of Section 17 of the Act. Without this information, the Commission would be unable to adequately supervise the SIBHC as provided for under the Exchange Act.

We estimate that three IBHCs will file Notices of Intention with the Commission to be supervised by the Commission as SIBHCs. An SIBHC will require, on average, about 3,600 hours to assess its present structure, businesses, and controls, and establish and document its risk management control system. In addition, an SIBHC will require, on average, approximately 250 hours each year to maintain its risk management control system. Consequently, the total initial burden for all SIBHCs is approximately 10,800 hours [8] and the continuing annual burden is about 750 hours.[9] Thus, the total burden relating to Rule 17i–4 for all SIBHCs is approximately 11,550 hours [10] in the first year, and approximately 750 hours each year thereafter.[11]

We believe that an IBHC likely would upgrade its information technology (''IT'') systems in order to more efficiently comply with certain of the SIBHC framework rules (including Rules 17i–4, 17i–5, 17i–6 and 17i–7), and that this would be a one-time cost. Depending on the state of development of the IBHC's IT systems, it would cost an IBHC between $1 million and $10 million to upgrade its IT systems to comply with the SIBHC framework of rules. Thus, on average, it would cost each of the three SIBHCs about $5.5 million to upgrade their IT systems, or approximately $16.5 million in total. It is impossible to determine what percentage of the IT systems costs would be attributable to each Rule, so we allocated the total estimated upgrade costs equally (at 25% for each of the above-mentioned Rules), with $4,125,000 attributable to Rule 17i–5.

Written 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 will 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 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, Virginia 22312 or send an e-mail to: *PRA_Mailbox@sec.gov*.

October 19, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–25485 Filed 10–22–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 31a–2; SEC File No. 270–174; OMB Control No. 3235–0179.

[1] 44 U.S.C. 3501 *et seq.*

[2] Public Law No. 106–102, 113 Stat. 1338 (1999).

[3] *See* 15 U.S.C. 78q(i).

[4] *See* Exchange Act Release No. 49831 (Jun. 8, 2004), 69 FR 34472 (Jun. 21, 2004).

[5] *See* H.R. Conf. Rep. No. 106–434, 165 (1999). *See* also Exchange Act Release No. 49831, at 6 (Jun. 8, 2004), 69 FR 34472, at 34473 (Jun. 21, 2004).

[6] 17 CFR 240.15c3–4.

[7] 17 CFR 240.17i–5(b)(5).

[8] (3,600 hours × 3 SIBHCs) = 10,800 hours.

[9] (250 hours per year × 3 SIBHCs) = 750 hours per year.

[10] (3,600 hours × 3 SIBHCs) + (250 hours per year × 3 SIBHCs.)

[11] (250 hours per year × 3 SIBHCs).

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'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Section 31(a)(1) of the Investment Company Act of 1940 (the ''Act'') [1] requires registered investment companies (''funds'') and certain principal underwriters, broker-dealers, investment advisers and depositors of funds to maintain and preserve records as prescribed by Commission rules. Rule 31a–1 [2] specifies the books and records that each of these entities must maintain. Rule 31a–2,[3] which was adopted on April 17, 1944, specifies the time periods that entities must retain books and records required to be maintained under rule 31a–1.

Rule 31a–2 requires the following:

1. Every fund must preserve permanently, and in an easily accessible place for the first two years, all books and records required under rule 31a–1(b)(1)–(4).[4]

2. Every fund must preserve for at least six years, and in an easily accessible place for the first two years:

a. All books and records required under rule 31a–1(b)(5)–(12); [5]

b. All vouchers, memoranda, correspondence, checkbooks, bank statements, canceled checks, cash reconciliations, canceled stock certificates and all schedules that support each computation of net asset value of fund shares;

c. Any advertisement, pamphlet, circular, form letter or other sales literature addressed or intended for distribution to prospective investors;

d. Any record of the initial determination that a director is not an interested person of the fund, and each subsequent determination that the director is not an interested person of the fund, including any questionnaire and any other document used to determine that a director is not an interested person of the company;

e. Any materials used by the disinterested directors of a fund to determine that a person who is acting as legal counsel to those directors is an independent legal counsel; and

f. Any documents or other written information considered by the directors of the fund pursuant to section 15(c) of the Act in approving the terms or renewal of a contract or agreement between the company and an investment advisor.

3. Every underwriter, broker or dealer that is a majority-owned subsidiary of a fund must preserve records required to be preserved by brokers and dealers under rules adopted under section 17 of the Securities Exchange Act of 1934 [6] (''section 17'') for the periods established in those rules.

4. Every depositor of any fund, and every principal underwriter of any fund other than a closed-end fund, must preserve for at least six years records required to be preserved by brokers and dealers under rules adopted under section 17 to the extent the records are necessary or appropriate to record the entity's transactions with the fund.

5. Every investment adviser that is a majority-owned subsidiary of a fund must preserve the records required to be maintained by investment advisers under rules adopted under section 204 of the Investment Advisers Act of 1940 [7] (''section 204'') for the periods specified in those rules.

6. Every investment adviser that is not a majority-owned subsidiary of a fund must preserve for at least six years records required to be maintained by registered investment advisers under rules adopted under section 204 to the extent the records are necessary or appropriate to reflect the adviser's transactions with the fund.

The records required to be maintained and preserved under this part may be maintained and preserved for the required time by, or on behalf of, a fund on (i) micrographic media, including microfilm, microfiche, or any similar medium, or (ii) electronic storage media, including any digital storage medium or system that meets the terms of this section. The fund, or person that maintains and preserves records on its behalf, must arrange and index the records in a way that permits easy location, access, and retrieval of any particular record.[8]

The Commission periodically inspects the operations of all funds to ensure their compliance with the provisions of the Act and the rules under the Act. The Commission staff spends a significant portion of their time in these inspections reviewing the information contained in the books and records required to be kept by rule 31a–1 and to be preserved by rule 31a–2.

There are approximately 4,522 registered investment companies (''funds'') as of September 30, 2009, all of which are required to comply with rule 31a–2. Based on conversations with representatives of the fund industry and past estimates, our staff estimates that each fund currently spends 220 hours per year complying with rule 31a–2. Based on these estimates, our staff estimates that the total annual burden for a fund to comply with rule 31a–2, is 220 hours, with a total annual burden for all funds of 994,840 hours.[9]

The hour burden estimates for retaining records under rule 31a–2 are based on our experience with registrants and our experience with similar requirements under the Act and the rules under the Act. The number of burden hours may vary depending on, among other things, the complexity of the fund, the issues faced by the fund, and the number of series and classes of the fund. The estimated average burden hours are made solely for purposes of the Paperwork Reduction Act and are not derived from quantitative, comprehensive, or even representative

[1] 15 U.S.C. 80a–30(a)(1).

[2] 17 CFR 270.31a–1.

[3] 17 CFR 270.31a–2.

[4] 17 CFR 270.31a–1(b)(1)–(4). These include, among other records, journals detailing daily purchases and sales of securities or contracts to purchase and sell securities, general and auxiliary ledgers reflecting all asset, liability, reserve, capital, income and expense accounts, separate ledgers reflecting, separately for each portfolio security as of the trade date all ''long'' and ''short'' positions carried by the fund for its own account, and corporate charters, certificates of incorporation and by-laws.

[5] 17 CFR 270.31a–1(b)(5)–(12). These include, among other records, records of each brokerage order given in connection with purchases and sales of securities by the fund, all other portfolio purchases, records of all puts, calls, spreads, straddles or other options in which the fund has an interest, has granted, or has guaranteed, records of proof of money balances in all ledger accounts, files of all advisory material received from the investment adviser, and memoranda identifying persons, committees or groups authorizing the purchase or sale of securities for the fund.

[6] 15 U.S.C. 78q.

[7] 15 U.S.C. 80b–4.

[8] In addition, the fund, or whoever maintains the documents for the fund must provide promptly any of the following that the Commission (by its examiners or other representatives) or the directors of the fund may request: (A) A legible, true, and complete copy of the record in the medium and format in which it is stored; (B) a legible, true, and complete printout of the record; and (C) means to access, view, and print the records; and separately store, for the time required for preservation of the original record, a duplicate copy of the record on any medium allowed by this section. In the case of records retained on electronic storage media, the fund, or person that maintains and preserves records on its behalf, must establish and maintain procedures: (i) To maintain and preserve the records, so as to reasonably safeguard them from loss, alteration, or destruction; (ii) to limit access to the records to properly authorized personnel, the directors of the fund, and the Commission (including its examiners and other representatives); and (iii) to reasonably ensure that any reproduction of a non-electronic original record on electronic storage media is complete, true, and legible when retrieved.

[9] This estimate is based on the following calculation: 4,522 registered investment companies × 220 hours = 994,840 total hours.

survey or study of the burdens associated with our rules and forms.

The Commission staff estimates the average cost of preserving books and records required by rule 31a–2, to be approximately $70,000 annually per fund. As discussed previously, there are approximately 4,522 funds currently operating, for a total cost of preserving records as required by rule 31a–2 of $316,540,000 per year.[10] Our staff understands, however, based on conversations with representatives of the fund industry, that funds would already spend approximately half of this amount ($158,270,000) to preserve these same books and records, as they are also necessary to prepare financial statements, meet various state reporting requirements, and prepare their annual federal and state income tax returns. Therefore, we estimate that the total annual cost burden for funds as a result of compliance with rule 31a–2 is $158,270,000 per year.

These estimates of average costs are made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. 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.

Written comments are invited on: (a) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collections of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burdens of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to 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.*

[10] This estimate is based on the following calculation: 4,522 funds × $70,000 = $316,540,000.

Dated: October 19, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–25487 Filed 10–22–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: U.S. Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 17i–6; SEC File No. 270–532; OMB Control No. 3235–0588.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 [1] the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget requests for extension of the previously approved collections of information discussed below. The Code of Federal Regulations citation to this collection of information is the following: 17 CFR 240.17i–6.

Section 231 of the Gramm-Leach-Bliley Act of 1999 [2] (the ''GLBA'') amended Section 17 of the Securities Exchange Act of 1934 to create a regulatory framework under which a holding company of a broker-dealer (''investment bank holding company'' or ''IBHC'') may voluntarily be supervised by the Commission as a supervised investment bank holding company (or ''SIBHC'').[3] In 2004, the Commission promulgated rules, including Rule 17i–6, to create a framework for the Commission to supervise SIBHCs.[4] This framework includes qualification criteria for SIBHCs, as well as recordkeeping and reporting requirements. Among other things, this regulatory framework for SIBHCs is intended to provide a basis for non-U.S. financial regulators to treat the Commission as the principal U.S. consolidated home-country supervisor for SIBHCs and their affiliated broker-dealers.[5]

Pursuant to Section 17(i)(3)(A) of the Exchange Act, an SIBHC must make and keep records, furnish copies thereof, and make such reports as the Commission may require by rule.[6] Rule 17i–6 requires that an SIBHC file with the Commission certain monthly and quarterly reports and an annual audit report. The reports and notices required to be filed pursuant to Rule 17i–6 must be preserved for a period of not less than three years.[7]

The collections of information required by Rule 17i–6 are necessary to allow the Commission adequately to supervise the activities of these SIBHCs and to effectively determine whether supervision of an IBHC as an SIBHC is necessary or appropriate in furtherance of the purposes of Section 17 of the Act. Rule 17i–6 also enhances the Commission's supervision of an SIBHC's subsidiary broker-dealers through collection of additional information and inspections of affiliates of those broker-dealers. Without these reports, the Commission would be unable to adequately supervise an SIBHC, nor would it be able to determine whether continued supervision of an IBHC as an SIBHC were necessary and appropriate in furtherance of the purposes of Section 17 of the Act.

We estimate that three IBHCs will file Notices of Intention with the Commission to be supervised by the Commission as SIBHCs. An SIBHC will require about 8 hours to prepare and file each monthly report required by this rule (or approximately 96 hours per year).[8] On average, it will take an SIBHC about 16 hours each quarter (or 64 hours each year) [9] to prepare and file the quarterly reports required by this rule. An SIBHC will require about 200 hours to prepare and file the annual audit reports required by this rule. Consequently, the total annual burden of Rule 17i–6 on all SIBHCs is approximately 984 hours.[10]

Rule 17i–6 requires that an SIBHC file certain monthly and quarterly reports with the Commission, as well as an annual audit report. The average cost for an SIBHC to prepare and file the monthly reports is about $1,424 per month, and thus approximately $11,392

[1] 44 U.S.C. 3501 *et seq.*

[2] Pub. L. No. 106–102, 113 Stat. 1338 (1999).

[3] *See* 15 U.S.C. 78q(i).

[4] *See* Exchange Act Release No. 49831 (Jun. 8, 2004), 69 FR 34472 (Jun. 21, 2004).

[5] *See* H.R. Conf. Rep. No. 106–434, 165 (1999). *See also* Exchange Act Release No. 49831, at 6 (Jun. 8, 2004), 69 FR 34472, at 34473 (Jun. 21, 2004).

[6] 15 U.S.C. 78q(i)(3)(A).

[7] 17 CFR 240.17i–5(b)(3).

[8] The SIBHC must file with the Commission a monthly report within 30 calendar days after the end of each month that does not coincide with a fiscal quarter end. Consequently, the SIBHC must file a monthly report 8 times each year. (8 hours × 8 months) = 64 hours/year.

[9] (16 hours × 4 quarters in a year) = 64 hours/year.

[10] (64 hours per year to prepare and file monthly reports + 64 hours each year to prepare and file quarterly reports + 200 hours each year to prepare and file annual audit reports) × 3 SIBHCs = 984 hours.

per year.[11] On average, an SIBHC will incur a quarterly cost of $2,848 to prepare and file the required quarterly reports, and thus will incur an annual cost of $11,392 to file these reports.[12] Finally, an SIBHC, on average, will incur an annual cost of $40,400 to prepare and file an annual audit.[13] Thus, the total dollar cost of the ongoing paperwork burden associated with Rule 17i–6 is approximately $189,552.[14]

We believe that an IBHC likely will upgrade its information technology (''IT'') systems in order to more efficiently comply with certain of the SIBHC framework rules (including Rules 17i–4, 17i–5, 17i–6 and 17i–7), and that this would be a one-time cost. Depending on the state of development of the IBHC's IT systems, it would cost an IBHC between $1 million and $10 million to upgrade its IT systems to comply with the SIBHC framework of rules. Thus, on average, it would cost each of the three IBHCs about $5.5 million to upgrade their IT systems, or approximately $16.5 million in total. It is impossible to determine what percentage of the IT systems costs would be attributable to each Rule, so we allocated the total estimated upgrade costs equally (at 25% for each of the above-mentioned Rules), with $4,125,000 attributable to Rule 17i–6.

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 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. 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, Virginia 22312 or send an e-mail to: *PRA_Mailbox@sec.gov*.

Dated: October 19, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–25486 Filed 10–22–09; 8:45 am]

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[11] We believe that an SIBHC would have a Senior Accountant prepare and file these reports. According to the Securities Industry Financial Management Association (or ''SIFMA''), the hourly cost of a Senior Accountant is $178, as reflected in the SIFMA's *Report on Management and Professional Earnings for 2008,* and modified to account for an 1,800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead. ($178 × 8 hours) = $1,424. ($1,424 × 8 months) = $11,392.

[12] We believe that an SIBHC would have a Senior Accountant prepare and file these reports. The hourly cost of a Senior Accountant is $178. ($178 × 16 hours) = $2,848. ($2,848 × 4 quarters) = $11,392.

[13] We believe that an SIBHC would have a Senior Internal Auditor work with accountants to prepare and file these reports. According to the SIFMA, the hourly cost of a Senior Internal Auditor is $202, as reflected in its *Report on Management and Professional Earnings for 2008*, and modified to account for an 1,800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead. ($202 × 200 hours) = $40,400.

[14] (($11,392 + $11,392 + $40,400) × 3 SIBHCs) = $189,552.

SECURITIES AND EXCHANGE COMMISSION

[Rule 17i–2; SEC File No. 270–528; OMB Control No. 3235–0592]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: U.S. Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995[1] the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget requests for extension of the previously approved collections of information discussed below. The Code of Federal Regulations citation to this collection of information is the following: 17 CFR 240.17i–2.

Section 231 of the Gramm-Leach-Bliley Act of 1999[2] (the ''GLBA'') amended Section 17 of the Securities Exchange Act of 1934 to create a regulatory framework under which a holding company of a broker-dealer (''investment bank holding company'' or ''IBHC'') may voluntarily be supervised by the Commission as a supervised investment bank holding company (or ''SIBHC'').[3] In 2004, the Commission promulgated rules, including Rule 17i–2, to create a framework for the Commission to supervise SIBHCs.[4] This framework includes qualification criteria for SIBHCs, as well as recordkeeping and reporting requirements. Among other things, this regulatory framework for SIBHCs is intended to provide a basis for non-U.S. financial regulators to treat the Commission as the principal U.S. consolidated, home-country supervisor[5] for SIBHCs and their affiliated broker-dealers.

Rule 17i–2 provides the method by which an IBHC can elect to become an SIBHC. In addition, Rule 17i–2 indicates that the IBHC will automatically become an SIBHC 45 days after the Commission receives its completed Notice of Intention unless the Commission issues an order indicating either that it will begin its supervision sooner or that it does not believe it to be necessary or appropriate in furtherance of Section 17 of the Act for the IBHC to be so supervised. Finally, Rule 17i–2 sets forth the criteria the Commission would use to make this determination. The records required to be created pursuant to Rule 17i–2 must be preserved for a period of not less than three years.[6]

The collections of information required by Rule 17i–2 are necessary to allow the Commission to effectively determine whether supervision of an IBHC as an SIBHC is necessary or appropriate in furtherance of the purposes of Section 17 of the Act. In addition, these collections are needed so that the Commission can adequately supervise the activities of these SIBHCs. Finally, these rules enhance the Commission's supervision of the SIBHCs' subsidiary broker-dealers through collection of additional information and inspections of affiliates of those broker-dealers.

We estimate that three IBHCs will file Notices of Intention with the Commission to be supervised by the Commission as SIBHCs. Each IBHC that files a Notice of Intention to become supervised by the Commission as an SIBHC will require approximately 900 hours to draft the Notice of Intention, compile the various documents to be included with the Notice of Intention, and work with the Commission staff. Further, each IBHC likely will have an attorney review its Notice of Intention, and it will take the attorney approximately 100 hours to complete such a review. Consequently, we estimate the total one-time burden for all three firms to file their Notices of Intention would be approximately 3,000

[1] 44 U.S.C. 3501 *et seq.*

[2] Public Law 106–102, 113 Stat. 1338 (1999).

[3] *See* 15 U.S.C. 78q(i).

[4] *See* Exchange Act Release No. 49831 (Jun. 8, 2004), 69 FR 34472 (Jun. 21, 2004).

[5] *See* H.R. Conf. Rep. No. 106–434, 165 (1999). *See also* Exchange Act Release No. 49831, at 6 (Jun. 8, 2004), 69 FR 34472, at 34473 (Jun. 21, 2004).

[6] 17 CFR 240.17i–5(b)(2).

hours.[7] Rule 17i–2 also requires that an IBHC/SIBHC update its Notice of Intention on an ongoing basis.[8] Each IBHC/SIBHC will require approximately two hours each month to update its Notice of Intention, as necessary. Thus, we estimate that it will take the three IBHC/SIBHCs, in the aggregate, about 72 hours each year to update their Notices of Intention.[9] Thus, the total burden relating to Rule 17i–2 for all SIBHCs would be approximately 3,072 hours in the first year,[10] and approximately 72 hours each year thereafter.

Written 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 will 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 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, Virginia 22312 or send an e-mail to: *PRA_Mailbox@sec.gov.*

Dated: October 19, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–25484 Filed 10–22–09; 8:45 am]

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[7] (900 hours + 100 hours) × 3 IBHCs/SIBHCs = 3,000 hours.

[8] An IBHC would be required to review and update its Notice of Intention to the extent it becomes inaccurate prior to a Commission determination, and an SIBHC would be required to update its Notice of Intention if it changes a mathematical model used to calculate its risk allowances pursuant to Rule 17i–7 after a Commission determination was made.

[9] (2 hours × 12 months each year) × 3 SIBHCs = 72.

[10] (3,000 hours to file the Notices of Intention + 72 hours to update them.)

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 28949; File No. 812–13571]

Pacific Investment Management Company LLC and PIMCO ETF Trust; Notice of Application

October 20, 2009.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an 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) and 22(e) of the Act and rule 22c–1 under the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and (B) of the Act.

APPLICANTS: Pacific Investment Management Company LLC (the ''Advisor'') and PIMCO ETF Trust (the ''Trust'').

SUMMARY OF APPLICATION: Applicants request an order that permits: (a) Series of certain actively managed open-end management investment companies to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at negotiated market prices; (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days from the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares.

FILING DATES: The application was filed on September 4, 2008 and amended on October 8, 2009. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

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 November 9, 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: 840 Newport Center Drive, Newport Beach, CA 92660.

FOR FURTHER INFORMATION CONTACT: Jill Ehrlich, Attorney Adviser, at (202) 551–6819 or Mary Kay Frech, Branch Chief, at (202) 551–6821 (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 for 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 is an open-end management company registered under the Act and organized as a Delaware statutory trust. The Trust will offer five actively-managed investment series: PIMCO Enhanced Short Maturity Strategy Fund, PIMCO Government Limited Maturity Strategy Fund, PIMCO Intermediate Municipal Bond Strategy Fund, PIMCO Prime Limited Maturity Strategy Fund, and PIMCO Short Term Municipal Bond Strategy Fund (together, the ''Initial Funds''). The investment objective of PIMCO Enhanced Short Maturity Strategy Fund, PIMCO Government Limited Maturity Strategy Fund, and PIMCO Prime Limited Maturity Strategy Fund will be to seek maximum current income, consistent with preservation of capital and daily liquidity. The investment objective of PIMCO Intermediate Municipal Bond Strategy Fund and PIMCO Short Term Municipal Bond Strategy Fund will be to seek tax-exempt income, consistent with preservation of capital.

2. Applicants request that the order apply to any future series of the Trust or of other open-end management companies that may utilize active management investment strategies (''Future Funds'').[1] Any Future Fund

[1] All entities that currently intend to rely on the order are named as applicants. Any Funds that rely on the order in the future will comply with the terms and conditions of the application. An Investing Fund (as defined below) may rely on the

will (a) be advised by the Advisor or an entity controlling, controlled by, or under common control with the Advisor, and (b) comply with the terms and conditions of the order. The Initial Fund and Future Funds together are the ''Funds.'' Each Fund will consist of a portfolio of securities (including fixed-income securities and/or equity securities) and/or currencies (''Portfolio Instruments'').[2] Funds holding non-U.S. investments are ''Global Funds.'' Each Fund will operate as an actively managed exchange-traded fund (''ETF'').

3. The Advisor, a Delaware limited liability company, is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act'') and will be the investment adviser to the Funds. The Advisor may enter into sub-advisory agreements with investment advisers to act as sub-advisers with respect to the Trust and in connection with Future Funds (each a ''Subadvisor''). Any Subadvisor will be registered under the Advisers Act. Allianz Global Investors Distributors LLC (the ''Distributor'') is a broker-dealer that is registered under the Securities Exchange Act of 1934 (the ''Exchange Act'') and will act as the distributor and principal underwriter of the Funds.

4. Applicants anticipate that a Creation Unit will consist of at least 50,000 Shares and that the price of a Share will range from $20 to $200. All orders to purchase Creation Units must be placed with the Distributor by or through a party that has executed a participant agreement with the Distributor and the transfer agent with respect to the creation and redemption of Creation Units (''Authorized Participant''). An Authorized Participant must be either: (1) A broker or dealer registered under the Exchange Act (''Broker'') or other participant in the Continuous Net Settlement (''CNS'') System of the National Securities Clearing Corporation (''NSCC''), a clearing agency registered with the Commission, or (2) a participant in the Depository Trust Company (''DTC'' and such participant, a ''DTC Participant''). The Initial Funds and certain Future Funds will generally be purchased entirely for cash (''All-Cash Payments'') and will generally be redeemed in-kind for certain specified Portfolio Instruments (''Redemption Instruments''). However, the Trust reserves the right to permit purchases of Creation Units by means of an in-kind tender of specified instruments (''Deposit Instruments'') and to permit cash redemptions.[3] In-kind purchases and redemptions will be accompanied by a small cash balancing amount to ensure that the transactions occur at net asset value (''NAV''). The Trust reserves the right to permit, under certain circumstances, a purchaser of Creation Units to substitute cash in lieu of depositing some or all of the required Deposit Instruments.

5. An investor purchasing a Creation Unit from a Fund will be charged a fee (''Transaction Fee'') to prevent the dilution of the interests of the remaining shareholders resulting from costs in connection with the purchase of Creation Units.[4] The maximum Transaction Fees relevant to each Fund will be completely disclosed in the prospectus (''Prospectus'' 1A [5] or other documentation. All orders to purchase Creation Units will be placed with the Distributor by or through an Authorized Participant, and it will be the Distributor's responsibility to transmit all purchase orders to the relevant Fund. The Distributor also will be responsible for delivering a Prospectus to those persons purchasing Creation Units and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it.

6. Purchasers of Shares in Creation Units may hold such Shares or may sell such Shares into the secondary market. Shares will be listed and traded at negotiated prices on a national securities exchange as defined in section 2(a)(26) of the Act (the ''Stock Exchange''). It is expected that one or more member firms of the listing Stock Exchange will be designated to act as a specialist and maintain a market for Shares on the Stock Exchange (''Specialist''), or if Nasdaq is the listing Stock Exchange, one or more member firms of Nasdaq will act as a market maker (''Market Maker'') and maintain a market for Shares.[6] The price of the Shares trading on the Stock Exchange will be based on a current bid-offer market. Shares sold in the secondary market will be subject to customary brokerage commissions and charges.

7. Applicants expect that purchasers of Creation Units will include arbitrageurs. The Specialists or Market Makers, in providing a fair and orderly secondary market for Shares, also may purchase Creation Units for use in their own market making activities. Applicants expect that secondary market purchasers of Shares will include both institutional and retail investors.[7] Applicants expect that the price at which the Shares trade will be disciplined by arbitrage opportunities created by the ability to continually purchase or redeem Creation Units at their NAV, which should ensure that the Shares will not trade at a material discount or premium in relation to their NAV.

8. Shares will not be individually redeemable, and owners of Shares may acquire those Shares from a Fund, or tender such Shares for redemption to the Fund, in Creation Units only. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. Redemption requests must be placed by or through an Authorized Participant. Applicants currently contemplate that Creation Units of the Initial Funds will be redeemed principally in-kind (together with a balancing cash payment).[8] To the extent

order only to invest in Funds and not in any other registered investment company.

[2] To the extent consistent with other investment limitations, the Initial Funds may invest in mortgage- or asset-backed securities, including TBA Transactions (defined below), and may engage in forward commitment transactions. Neither the Initial Funds nor any Future Fund will invest in options contracts, futures contracts, or swap agreements.

[3] Applicants state that in determining whether a particular Fund will be selling or redeeming Creation Units on a cash or in-kind basis, the key consideration will be the benefit which would accrue to Fund investors. Applicants state that in many cases, particularly to the extent the Deposit Instruments (as defined below) are less liquid, investors may benefit by the use of all cash purchases because the Advisor would execute trades rather than Market Makers (as defined below). Applicants believe that the Advisor may be able to obtain better execution in bond transactions due to its size, experience and potentially stronger relationships in the fixed income markets. With respect to redemptions, tax considerations may warrant in-kind redemptions, which do not result in a taxable event for the Fund.

[4] Where a Fund permits an in-kind purchaser to deposit cash in lieu of depositing one or more Deposit Instruments, the purchaser may be assessed a higher Transaction Fee to offset the transaction cost to the Fund of buying those particular Deposit Instruments.

[5] All representations and conditions contained in the application that require a Fund to disclose particular information in the Fund's 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).

[6] If Shares are listed on Nasdaq, no Specialist will be contractually obligated to make a market in Shares. Rather, under Nasdaq's listing requirements, two or more Market Makers will be registered in Shares and required to make a continuous, two-sided market or face regulatory sanctions.

[7] Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or DTC Participants.

[8] Applicants state that each Fund intends to substitute a cash-in-lieu amount to replace any Deposit Instrument or Redemption Instrument that is a ''to-be-announced transaction'' or ''TBA Transaction.'' A TBA transaction is a method of trading mortgage-backed securities. In a TBA

Continued

a Fund utilizes in-kind redemptions, an investor redeeming a Creation Unit will receive the Redemption Instruments, which, applicants expect, in most cases will be the same as the Deposit Instruments required of investors purchasing Creation Units on the same day. The redeeming investor also must pay to the Fund a Transaction Fee.

9. Applicants state that in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, the relevant Funds will comply with the federal securities laws, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the Securities Act of 1933 (''Securities Act'').[9] To the extent in-kind purchases and redemptions are utilized, a Creation Unit will be purchased or redeemed from the Funds for a basket of Deposit Instruments or Redemption Instruments that corresponds *pro rata,* to the extent practicable, to the Fund portfolio plus a specified cash payment.[10]

10. Neither the Trust nor any Fund will be marketed or otherwise held out as an ''open-end investment company'' or a ''mutual fund.'' Instead, each Fund will be marketed as an ''actively-managed exchange-traded fund.'' Any advertising material where features of obtaining, buying or selling Creation Units are described or where there is reference to redeemability will prominently disclose that Shares are not individually redeemable and that owners of Shares may acquire Shares from a Fund and tender those Shares for redemption to a Fund in Creation Units only. The same approach will be followed in the statement of additional information (''SAI''), shareholder reports and any marketing or advertising materials issued or circulated in connection with the Shares.

11. The Funds' Web site, which will be publicly available prior to the public offering of Shares, will include the Prospectus and information about the Funds that is updated on a daily basis, including the mid-point of the bid/ask spread at the time of the calculation of NAV (''Bid/Ask Price''). On each Business Day, which is defined to include any day that the Trust is open for business as required by section 22(e) of the Act, before commencement of trading in Shares on the Stock Exchange, the Fund will disclose on its website the identities and quantities of the Portfolio Instruments and other assets held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the Business Day.[11]

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act granting an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act; and under sections 6(c) and 17(b) of the Act granting 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 (B) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit each Fund, as a series of an open-end management investment company, to issue Shares that are redeemable in Creation Units only. Applicants state that investors may purchase Shares in Creation Units from each Fund and redeem Creation Units from each Fund. Applicants further state that because the market price of Shares will be disciplined by arbitrage opportunities, investors should be able to sell Shares in the secondary market at prices that do not vary substantially from their NAV.

Section 22(d) of the Act and Rule 22c–1 Under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through an underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming, or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in the Prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that, while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a)

Transaction, the buyer and seller agree upon general trade parameters such as agency, settlement date, par amount and price. The actual pools delivered generally are determined two days prior to the settlement date. The amount of substituted cash in the case of TBA Transaction will be equivalent to the value of the TBA Transaction listed as a Deposit Instrument or Redemption Instrument.

[9] In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to rule 144A under the Securities Act, the relevant Funds will comply with the conditions of rule 144A. The Prospectus for a Fund will also state that an Authorized Participant that is not a ''Qualified Institutional Buyer'' as defined in rule 144A under the Securities Act will not be able to receive, as part of a redemption, restricted securities eligible for resale under rule 144A.

[10] In some cases, for example, applicants state that it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement, so there may be minor differences between a basket of Deposit Instruments or Redemption Instruments and a true *pro rata* slice of a Fund portfolio.

[11] Applicants note that under accounting procedures followed by the Funds, trades made on the prior Business Day (''T'') will be booked and reflected in NAV on the current Business Day (''T+1''). Accordingly, the Funds will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for the NAV calculation at the end of the Business Day.

prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers resulting from sales at different prices, and (c) assure an orderly distribution of investment company shares by eliminating price competition from Brokers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve the Funds as parties and cannot result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the proposed distribution system will be orderly because arbitrage activity will ensure that the difference between the market price of Shares and their NAV remains narrow.

Section 22(e) of the Act

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants state that the settlement of redemptions of Creation Units of the Global Funds is contingent not only on the settlement cycle of the U.S. securities markets but also on the delivery cycles present in foreign markets in which the Global Funds invest. Applicants state that delivery cycles for transferring Portfolio Instruments to redeeming investors, coupled with local market holiday schedules, will require a delivery process longer than seven calendar days for a Global Fund. Applicants request relief under section 6(c) of the Act from section 22(e) to allow a Global Fund to pay redemption proceeds up to 12 calendar days after the tender of any Creation Units for redemption. Except as disclosed in the relevant Global Fund's Prospectus and/or SAI, applicants expect that each Global Fund will be able to deliver redemption proceeds within seven days.[12] With respect to Future Funds that are Global Funds, applicants seek the same relief from section 22(e) only to the extent that circumstances similar to those described in the application exist.

8. Applicants state that section 22(e) was designed to prevent unreasonable and unforeseen delays in the payment of redemption proceeds. Applicants assert that the requested relief will not lead to the problems that section 22(e) was designed to prevent. Applicants state that the SAI will disclose those local holidays (over the period of at least one year following the date of the SAI), if any, that are expected to prevent the delivery of redemption proceeds in seven calendar days, and the maximum number of days needed to deliver the proceeds for each affected Global Fund. Applicants are not seeking relief from section 22(e) with respect to Global Funds that do not effect creations and redemptions of Creation Units in-kind.

Section 12(d)(1) of the Act

9. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter, or any other broker or dealer from selling its shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

10. Applicants request relief to permit Investing Funds (as defined below) to acquire Shares in excess of the limits in section 12(d)(1)(A) of the Act and to permit the Funds, their principal underwriters and any Brokers to sell Shares to Investing Funds in excess of the limits in section 12(d)(l)(B) of the Act. Applicants request that these exemptions apply to: (1) Any Fund that is currently or subsequently part of the same ''group of investment companies'' as the Initial Funds within the meaning of section 12(d)(1)(G)(ii) of the Act as well as any principal underwriter for the Fund and any Brokers selling Shares of a Fund to an Investing Fund; and (2) each management investment company or unit investment trust registered under the Act that is not part of the same ''group of investment companies'' as the Funds within the meaning of section 12(d)(1)(G)(ii) of the Act and that enters into a FOF Participation Agreement (as defined below) with a Fund (such management investment companies are referred to herein as ''Investing Management Companies,'' such unit investment trusts are referred to herein as ''Investing Trusts,'' and Investing Management Companies and Investing Trusts together are referred to herein as ''Investing Funds''). Investing Funds do not include the Funds. Each Investing Trust will have a sponsor (''Sponsor'') and each Investing Management Company will have an investment adviser within the meaning of section 2(a)(20)(A) of the Act (''Investing Fund Advisor'') that does not control, is not controlled by or under common control with the Advisor. Each Investing Management Company may also have one or more investment advisers within the meaning of section 2(a)(20)(B) of the Act (each, an ''Investing Fund Sub-Advisor'').

11. Applicants assert that the proposed transactions will not lead to any of the abuses that section 12(d)(1) was designed to prevent. Applicants submit that the proposed conditions to the requested relief address the concerns underlying the limits in section 12(d)(1), which include concerns about undue influence, excessive layering of fees and overly complex structures.

12. Applicants believe that neither an Investing Fund nor an Investing Fund Affiliate would be able to exert undue influence over a Fund.[13] To limit the control that an Investing Fund may have over a Fund, applicants propose a condition prohibiting an Investing Fund Advisor or a Sponsor, any person controlling, controlled by, or under common control with the Investing Fund Advisor or Sponsor, and any investment company or issuer that would be an investment company but

[12] Rule 15c6–1 under the Exchange Act requires that most securities transactions be settled within three business days of the trade date. Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations that it may otherwise have under rule 15c6–1.

[13] ''Investing Fund Affiliate'' is the Investing Fund Advisor, Investing Fund Sub-Advisor, Sponsor, promoter and principal underwriter of an Investing Fund, and any person controlling, controlled by or under common control with any of these entities. ''Fund Affiliate'' is an investment adviser, promoter, or principal underwriter of a Fund and any person controlling, controlled by or under common control with any of these entities.

for section 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by the Investing Fund Advisor or Sponsor, or any person controlling, controlled by, or under common control with the Investing Fund Advisor or Sponsor (''Investing Fund's Advisory Group'') from controlling (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any Investing Fund Sub-Advisor, any person controlling, controlled by or under common control with the Investing Fund Sub-Advisor, and any investment company or issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Investing Fund Sub-Advisor or any person controlling, controlled by or under common control with the Investing Fund Sub-Advisor (''Investing Fund's Sub-Advisory Group'').

13. Applicants propose other conditions to limit the potential for undue influence over the Funds, including that no Investing Fund or Investing Fund Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting''). An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, Investing Fund Advisor, Investing Fund Sub-Advisor, employee or Sponsor of the Investing Fund, or a person of which any such officer, director, member of an advisory board, Investing Fund Advisor or Investing Fund Sub-Advisor, employee or Sponsor is an affiliated person (except that any person whose relationship to the Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate).

14. Applicants do not believe that the proposed arrangement will involve excessive layering of fees. The board of directors or trustees of any Investing Management Company, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (''disinterested directors or trustees''), will be required to find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract of any Fund in which the Investing Management Company may invest. In addition, an Investing Fund Advisor, trustee of a Investing Trust (''Trustee'') or Sponsor, as applicable, will waive fees otherwise payable to it by the Investing Fund in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–l under the Act) received from a Fund by the Investing Fund Advisor, Trustee or Sponsor or an affiliated person of the Investing Fund Advisor, Trustee or Sponsor, other than any advisory fees paid to the Investing Fund Advisor, Trustee or Sponsor or its affiliated person by a Fund, in connection with the investment by the Investing Fund in the Fund. Applicants also state that any sales charges and/or service fees charged with respect to shares of an Investing Fund will not exceed the limits applicable to a fund of funds as set forth in Conduct Rule 2830 of the Financial Industry Regulatory Authority (''Rule 2830'').

15. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that a Fund will be prohibited from acquiring securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes.

16. To ensure that an Investing Fund is aware of the terms and conditions of the requested order, the Investing Funds must enter into an agreement with the respective Funds (''FOF Participation Agreement''). The FOF Participation Agreement will include an acknowledgment from the Investing Fund that it may rely on the order only to invest in the Funds and not in any other investment company.

Section 17(a) of the Act

17. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such person (''second tier affiliates''), from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines ''affiliated person'' to include any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person and any person directly or indirectly controlling, controlled by, or under common control with, the other person. Section 2(a)(9) of the Act provides that a control relationship will be presumed where one person owns more than 25% of another person's voting securities. The Funds may be deemed to be controlled by the Advisor or an entity controlling, controlled by or under common control with the Advisor and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by the Advisor or an entity controlling, controlled by or under common control with the Advisor (an ''Affiliated Fund'').

18. Applicants request an exemption under sections 6(c) and 17(b) of the Act from section 17(a) of the Act in order to permit in-kind purchases and redemptions of Creation Units from the Funds by persons that are affiliated persons or second tier affiliates of the Funds solely by virtue of one or more of the following: (a) Holding 5% or more, or in excess of 25% of the outstanding Shares of one or more Funds; (b) having an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25% of the Shares of one or more Affiliated Funds. Applicants also request an exemption in order to permit a Fund to sell its Shares to and redeem its Shares from, and engage in the in-kind transactions that would accompany such sales and redemptions with, any Investing Fund of which the Fund is an affiliated person or second-tier affiliate.[14]

19. Applicants contend that no useful purpose would be served by prohibiting such affiliated persons from making in-kind purchases or in-kind redemptions of Shares of a Fund in Creation Units. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions will be the same for all purchases and redemptions. Deposit Instruments and Redemption Instruments will be valued in the same manner as those Portfolio Instruments currently held by the relevant Funds. Therefore, applicants state that in-kind purchases and redemptions will afford no opportunity for the specified affiliated persons of a Fund to effect a transaction detrimental to the other holders of Shares. Applicants also believe that in-kind purchases and redemptions will not result in abusive self-dealing or overreaching of the Fund.

20. Applicants also submit that the sale of Shares to and redemption of Shares from an Investing Fund satisfies

[14] Applicants expect that most Investing Funds will purchase Shares in the secondary market and will not purchase Creation Units directly from a Fund.

the standards for relief under sections 17(b) and 6(c) of the Act. Applicants note that that any consideration paid for the purchase or redemption of Shares directly from a Fund will be based on the NAV of the Fund in accordance with policies and procedures set forth in the Fund's registration statement.[15] Applicants also state that the proposed transactions will be consistent with the policies of each Investing Fund and Fund and with the general purposes of the Act.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:[16]

A. Actively Managed Exchange-Traded Fund Relief

1. Each Prospectus will clearly disclose that, for purposes of the Act, Shares are issued by a registered investment company and that the acquisition of Shares by investment companies and companies relying on sections 3(c)(1) or 3(c)(7) of the Act 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 in section 12(d)(1), subject to certain terms and conditions, including that the registered investment company enter into a FOF Participation Agreement with the Fund regarding the terms of the investment.

2. As long as the Funds operate in reliance on the requested order, the Shares of the Funds will be listed on a Stock Exchange.

3. Neither the Trust nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Each Fund's Prospectus will prominently disclose that the Fund is an actively managed exchange-traded fund. Each Prospectus will prominently disclose that the Shares are not individually redeemable shares and will disclose that the owners of the Shares may acquire those Shares from the Fund and tender those Shares for redemption to the Fund in Creation Units only. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that the Shares are not individually redeemable and that owners of the Shares may acquire those Shares from the Fund and tender those Shares for redemption to the Fund in Creation Units only.

4. The Web site for the Funds, which is and 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 Bid/Ask Price, and a calculation of the premium or discount of the Bid/Ask Price against such NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters (or for the life of the Fund, if shorter).

5. The Prospectus and annual report for each Fund will also include: (a) The information listed in condition A.4(b), (i) in the case of the Prospectus, for the most recently completed year (and the most recently completed quarter or quarters, as applicable) and (ii) in the case of the annual report, for the immediately preceding five years (or for the life of the Fund, if shorter), and (b) calculated on a per Share basis for one-, five- and ten-year periods (or for the life of the Fund, if shorter), the cumulative total return and the average annual total return based on NAV and Bid/Ask Price.

6. On each Business Day, before commencement of trading in Shares on the Stock Exchange, the Fund will disclose on its website the identities and quantities of the Portfolio Instruments and other assets held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the Business Day.

7. The Advisor or any Subadvisor, directly or indirectly, will not cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Fund) to acquire any Deposit Instrument for the Fund through a transaction in which the Fund could not engage directly.

8. The requested order will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of actively-managed exchange-traded funds.

B. Section 12(d)(1) Relief

1. The members of the Investing Fund's Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The members of the Investing Fund's Subadvisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Investing Fund's Advisory Group or the Investing Fund's Subadvisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a Fund, it will vote its Shares of the Fund in the same proportion as the vote of all other holders of the Fund's Shares. This condition does not apply to the Investing Fund's Subadvisory Group with respect to a Fund for which the Investing Fund Sub-Advisor or a person controlling, controlled by or under common control with the Investing Fund Sub-Advisor acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

2. No Investing Fund or Investing Fund Affiliate will cause any existing or potential investment by the Investing Fund in a Fund to influence the terms of any services or transactions between the Investing Fund or an Investing Fund Affiliate and the Fund or a Fund Affiliate.

3. The board of directors or trustees of an Investing Management Company, including a majority of the disinterested directors or trustees, will adopt procedures reasonably designed to assure that the Investing Fund Advisor and any Investing Fund Sub-Advisor are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or an Investing Fund Affiliate from a Fund or a Fund Affiliate in connection with any services or transactions.

4. Once an investment by an Investing Fund in the securities of a Fund exceeds the limit in section 12(d)(1)(A)(i) of the Act, the board of trustees (the ''Board'') of a Fund, including a majority of the disinterested Board members, will determine that any consideration paid by the Fund to the Investing Fund or an Investing Fund Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund; (ii) is within the range of consideration that the Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund and its investment advisor(s), or any person controlling, controlled by or under common control with such investment advisor(s).

[15] Applicants acknowledge that the receipt of compensation by (a) an affiliated person of an Investing Fund, or an affiliated person of such person, for the purchase by the Investing Fund of Shares of a Fund or (b) an affiliated person of a Fund, or an affiliated person of such person, for the sale by the Fund of its Shares to an Investing Fund, may be prohibited by section 17(e)(1) of the Act. The FOF Participation Agreement also will include this acknowledgment.

[16] *See* note 5, *supra*.

5. The Investing Fund Advisor, or Trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Investing Fund in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–l under the Act) received from a Fund by the Investing Fund Advisor, or Trustee or Sponsor, or an affiliated person of the Investing Fund Advisor, or Trustee or Sponsor, other than any advisory fees paid to the Investing Fund Advisor, or Trustee or Sponsor, or its affiliated person by the Fund, in connection with the investment by the Investing Fund in the Fund. Any Investing Fund Sub-Advisor will waive fees otherwise payable to the Investing Fund Sub-Advisor, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund by the Investing Fund Sub-Advisor, or an affiliated person of the Investing Fund Sub-Advisor, other than any advisory fees paid to the Investing Fund Sub-Advisor or its affiliated person by the Fund, in connection with the investment by the Investing Management Company in the Fund made at the direction of the Investing Fund Sub-Advisor. In the event that the Investing Fund Sub-Advisor waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

6. No Investing Fund or Investing Fund Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an Affiliated Underwriting.

7. The Board of a Fund, including a majority of the disinterested Board members, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund in an Affiliated Underwriting, once an investment by an Investing Fund in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Investing Fund in the Fund. The Board will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to assure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders.

8. Each Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by an Investing Fund in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

9. Before investing in a Fund in excess of the limits in section 12(d)(1)(A), an Investing Fund will execute a FOF Participation Agreement with the Fund stating that their respective boards of directors or trustees and their investment advisors, or Trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), an Investing Fund will notify the Fund of the investment. At such time, the Investing Fund will also transmit to the Fund a list of the names of each Investing Fund Affiliate and Underwriting Affiliate. The Investing Fund will notify the Fund of any changes to the list as soon as reasonably practicable after a change occurs. The Fund and the Investing Fund will maintain and preserve a copy of the order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

10. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company, including a majority of the disinterested directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund in which the Investing Management Company may invest. These findings and their basis will be recorded fully in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of an Investing Fund will not exceed the limits applicable to a fund of funds as set forth in Rule 2830.

12. No Fund relying on this section 12(d)(1) relief 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 the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes.

For the Commission, by the Division of Investment Management, under delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–25560 Filed 10–22–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Sun Sports and Entertainment, Inc.; Order of Suspension of Trading

October 21, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Sun Sports and Entertainment, Inc. (''Sun Sports'') because of questions regarding the accuracy of statements by Sun Sports in press releases and statements to investors concerning, among other things, the company's business prospects and financial viability.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of Sun Sports.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the

securities of the above-listed company is suspended for the period from 9:30 a.m. EDT October 21, 2009 through 11:59 p.m. EST, on November 3, 2009.

By the Commission.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–25639 Filed 10–21–09; 11:15 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice 6792]

Culturally Significant Objects Imported for Exhibition Determinations: ''The Dead Sea Scrolls: Ancient Artifacts, Timeless Treasures''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''The Dead Sea Scrolls: Ancient Artifacts, Timeless Treasures,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Milwaukee Public Museum, Milwaukee, WI, from on or about January 21, 2010, until on or about May 6, 2010, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/632–6473). The address is U.S. Department of State, SA–5, L/PD, Fifth Floor, Washington, DC 20522–0505.

October 19, 2009.

Maura M. Pally,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. E9–25563 Filed 10–22–09; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 6791]

Determination and Certification Under Section 7046(d) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008

Pursuant to the authority vested in me as Secretary of State, including under section 7046(d)(1) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2009 (Div. H, Pub. L. 111–8), I hereby determine and certify that the Government of Colombia is meeting the conditions described in Section 7046(d)(2) of the FY 2009 SFOAA, and that I have consulted with Congress as consistent with the latter.

This Determination shall be published in the **Federal Register** and copies shall be transmitted to the appropriate committees of Congress.

Dated: October 16, 2009.

Hillary Rodham Clinton,

Secretary of State, Department of State.

[FR Doc. E9–25562 Filed 10–22–09; 8:45 am]

BILLING CODE 4710–29–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–551 (Sub-No. 1X)]

Knox and Kane Railroad Company—Abandonment Exemption—in Clarion, Forest, Elk and McKean Counties, PA

Knox and Kane Railroad Company (Knox and Kane), has filed a verified notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its entire line of railroad between milepost 95.3 at North Clarion Junction, PA, and milepost 165.2 at Mt. Jewett, PA, a distance of 69.9 miles, in Clarion, Forest, Elk and McKean Counties, PA. The line includes no stations and traverses United States Postal Service Zip Codes 16254, 16235, 16233, 16260, 16239, 16347, 16735, 16734, and 16740.

Knox and Kane has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

The Board generally does not impose labor protective conditions on a railroad, such as Knox and Kane here, that is abandoning its entire line. *See, Northampton and Bath R. Co.—Abandonment,* 354 I.C.C. 784 (1978).

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 24, 2009, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 2, 2009. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 12, 2009, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to Knox and Kane's representative: Andrew P. Goldstein, 2175 K Street, NW., Suite 600, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Knox and Kane has filed both an environmental report and a historic report that address the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by October 30, 2009. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which currently is set at $1,500. *See* 49 CFR 1002.2(f)(25).

Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), Knox and Kane shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by Knox and Kane's filing of a notice of consummation by October 23, 2010, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: October 19, 2009.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. E9–25501 Filed 10–22–09; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–497 (Sub-No. 5X)]

Minnesota Northern Railroad, Inc.—Abandonment Exemption—in Roseau County, MN

On October 5, 2009, Minnesota Northern Railroad, Inc. (MNN), filed with the Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a 20.035-mile portion of its Warroad Subdivision between milepost 83.6, located approximately 300 feet west of Roseau County Road 124 (11th Ave., SE.) in Roseau, and milepost 103.635, at the end of the line at Warroad, in Roseau County, MN. The line traverses United States Postal Service Zip Codes 56751, 56756, and 56763.

The line does not contain federally granted rights-of-way. Any documentation in MNN's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by January 22, 2010.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,500 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than November 12, 2009. Each trail use request must be accompanied by a $250 filing fee. *See* 49 CFR 1002.2(f)(27).[1]

All filings in response to this notice must refer to STB Docket No. AB–497 (Sub-No. 5X), and must be sent to: (1) Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001; and (2) Thomas F. McFarland, 208 South LaSalle Street, Suite 1890, Chicago, IL 60604–1194. Replies to the petition are due on or before November 12, 2009.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 245–0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: October 20, 2009.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Kulunie L. Cannon,

Clearance Clerk.

[FR Doc. E9–25516 Filed 10–22–09; 8:45 am]

BILLING CODE 4915–01–P

[1] Effective June 4, 2009, the filing fee for a request for a trail use condition increased to $250. *See Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2009 Update,* STB Ex Parte No. 542 (Sub-No. 16) (STB served May 4, 2009).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–1041X]

Dakota Northern Railroad, Inc.—Abandonment Exemption—in Walsh and Pembina Counties, ND

On October 5, 2009, and amended on October 8, 2009, Dakota Northern Railroad, Inc. (DN), filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a portion of its Glasston Subdivision between milepost 42.08 at the north edge of Private Crossing DOT No. 082102T approximately 2.7 miles north of Grafton and milepost 60.2 at the end of active track approximately 0.6 miles north of Glasston, a distance of 18.12 miles, in Walsh and Pembina Counties, ND. The line traverses U.S. Postal Service Zip Codes 58237 and 58276, and includes the stations of Auburn (milepost 45.9), St. Thomas (milepost 53.5), and Glasston (milepost 59.6).

DN states that it does not have information in its possession that shows that the line contains Federally granted rights-of-way. Any documentation in DN's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by January 22, 2010.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,500 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of

rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than November 12, 2009. Each trail use request must be accompanied by a $250 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–1041X, and must be sent to: (1) Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001, and (2) Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1890, Chicago, IL 60604–1112. Replies to DN's petition are due on or before November 12, 2009.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs and Compliance at (202) 245–0238 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA generally will be within 30 days of its service.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: October 19, 2009.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. E9–25503 Filed 10–22–09; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35308]

Piedmont & Atlantic Railroad Co., Inc., d/b/a/ Yadkin Valley Railroad Company—Acquisition and Operation Exemption—Norfolk Southern Railway Company

Piedmont & Atlantic Railroad Co., Inc., d/b/a Yadkin Valley Railroad Company (YVRR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire, by purchase pursuant to an agreement it anticipates entering into with Norfolk Southern Railway Company (NS) (successor to Southern Railway Company), and to operate approximately 93 miles of rail lines as follows: (1) From milepost K–37.0 at Rural Hall, in Forsyth County, NC, to milepost K–100.2 at North Wilkesboro, in Wilkes County, NC; and (2) from milepost CF–0.0 at Mount Airy, in Surry County, NC, to milepost CF–29.8 at Rural Hall, in Forsyth County, NC.[1] YVRR has subleased and operated these rail lines since March 1994.[2]

YVRR certifies that its projected annual revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier.

YVRR states that it intends to consummate the transaction on or after November 7, 2009, but shall in no event consummate the transaction before the Board either grants its petition for waiver of the 60-day labor notice requirement or YVRR satisfies the applicable labor notice requirement at 49 CFR 1150.42(e).[3] YVRR requests expedited action on its petition.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed no later than 7 days before the exemption becomes effective.

Pursuant to the Consolidated Appropriations Act, 2008, Public Law No. 110–161, § 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: collecting, storing, or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting, and shredding). The term ''solid waste'' is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35308, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Rose-Michele Nardi, Esq., Weiner Brodsky Sidman Kider PC, 1300 19th Street, NW., Fifth Floor, Washington, DC 20036–1609.

Board decisions and notices are available on our website at *http://www.stb.dot.gov.*

Decided: October 19, 2009.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Kulunie L. Cannon,

Clearance Clerk.

[FR Doc. E9–25512 Filed 10–22–09; 8:45 am]

BILLING CODE 4915–01–P

[1] Laurinburg & Southern Railroad Company previously was authorized to lease these lines and YVRR was authorized to operate them in *Laurinburg and Southern Railroad Company, et al.—Lease and Operation Exemption—Southern Railway Company,* Finance Docket No. 31526 (ICC served Nov. 7, 1989).

[2] *See Piedmont & Atlantic Railroad Co., Inc.—Lease and Operation Exemption—L & S Holding Company d/b/a/Laurinburg & Southern Railroad Co. and Yadkin Valley Railroad Company,* Finance Docket No. 32462 (ICC served Mar. 29, 1994). Also, in *H. Peter and Linda C. Claussen—Continuance in Control Exemption—Piedmont & Atlantic Railroad Co., Inc.,* Finance Docket No. 32464, (ICC served Mar. 29, 1994), H. Peter and Linda C. Claussen were authorized to continue in control of Piedmont & Atlantic Railroad Co., Inc., once it became a Class III rail carrier.

[3] On October 8, 2009, YVRR concurrently filed a certification of labor notice compliance and a petition for waiver of the 60-day advance labor notice requirement at 49 CFR 1150.42(e). That request will be addressed in a separate decision. Unless the Board grants the waiver request, the earliest this transaction may be consummated will be December 7, 2009.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35035]

Adrian & Blissfield Rail Road Company—Acquisition and Operation Exemption—Tecumseh Branch Connecting Railroad Company

Adrian & Blissfield Rail Road Company (ADBF), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from Tecumseh Branch Connecting Railroad Company (TCBY) and to operate, approximately 1.3 miles of rail line between milepost 44.2 and milepost 45.5, in the City of Adrian, Lenawee County, MI.

As a result of a transaction between ADBF and TCBY on November 19, 2001,

ADBF acquired the rail line as part of a corporate restructuring, but did not file its verified notice of exemption with the Board until October 9, 2009.[1] Thus, the effective date of the exemption is November 8, 2009 (30 days after the exemption is filed).[2]

ADBF certifies that its projected annual revenues as a result of this transaction do not exceed those that would qualify it as a Class III carrier and that its projected annual revenues will not exceed $5 million.

According to ADBF, there is no provision or agreement that may limit future interchange with a third-party connecting carrier.

Pursuant to the Consolidated Appropriations Act, 2008, Public Law 110–161, § 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: collecting, storing or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting and shredding). The term ''solid waste'' is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than November 2, 2009.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35035, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on John D. Heffner, 1750 K Street, NW., Suite 200, Washington, DC 20006.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: October 20, 2009.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Kulunie L. Cannon,

Clearance Clerk.

[FR Doc. E9–25550 Filed 10–22–09; 8:45 am]

BILLING CODE 4915–01–P

[1] ADBF states that eliminating TCBY as a rail carrier through this acquisition will enable ADBF's owners to restructure their railroad holdings by filing a class exemption notice for continuance in control of three other disconnected short line railroads they control. It appears that ADBF's owners presently are not authorized to have common control of more than one rail carrier. If that is the case, the Board expects the owners to promptly submit an appropriate filing for authorization for that common control.

[2] The class exemption invoked by ADBF does not provide for retroactive effectiveness.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aircraft Noise Impacts Research Roadmap

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting participation.

SUMMARY: This notice advises interested persons that the FAA is conducting workshops to develop an aircraft noise impacts research roadmap. The roadmap is intended to advance our scientific knowledge in order to optimally address the impacts of aircraft noise on society. The main objective of the workshops is to outline key research elements of the roadmap, prioritize research questions, and identify ways to overcome potential research challenges.

DATES: The first workshop will be held in Washington, DC, on December 10 and 11, 2009 from 9 a.m. to 4 p.m. A follow-on workshop will be held on March 4, 2010, from 9 a.m. to 4 p.m.

ADDRESSES: The first workshop will be held at the National Academy of Sciences Keck Center, 500 Fifth Street, NW., Washington, DC. The follow-on workshop will be held in conjunction with the University of California-Davis Symposium on Aviation Noise and Air Quality and will be held at the Holiday Inn-San Diego—On the Bay, 1355 North Harbor Drive, San Diego, CA 92101. Attendance is open to all interested parties.

FOR FURTHER INFORMATION CONTACT: Patricia Friesenhahn, Office of Environment and Energy (AEE–100), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; e-mail *patricia.friesenhahn@faa.gov,* telephone (202) 267–3562, facsimile (202) 267–5594. Please register by November 20; there is no registration fee. Additional details will soon be available at *http://www.fican.org* under FAA Workshop.

Background: Based on the advice of its Research, Engineering and Development Advisory Committee (REDAC), the FAA is developing a comprehensive aircraft noise impacts research roadmap for the FAA and other interested parties to implement more systematic, effective, and complementary research programs. The FAA held a preliminary forum with international noise researchers in conjunction with Internoise 2009 in August 2009 to discuss research needed to advance the current understanding of the relationship between aircraft noise and its impacts such as community annoyance and sleep disturbance. The FAA now invites researchers, practitioners, and other interested parties to participate in a series of upcoming Aircraft Noise Impacts Research Roadmap workshops to contribute to developing the research roadmap with information received from that forum.

Issued in Washington, DC, on October 19, 2009.

Lourdes Q. Maurice,

Acting Director of Environment and Energy.

[FR Doc. E9–25610 Filed 10–22–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–2005–23112]

Motorcyclist Advisory Council to the Federal Highway Administration

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of meeting of advisory committee.

SUMMARY: This document announces the seventh meeting of the Motorcyclist Advisory Council to the Federal Highway Administration (MAC–FHWA). The purpose of this meeting is to advise the Secretary of Transportation, through the Administrator of the FHWA, on infrastructure issues of concern to motorcyclists, including: (1) Barrier design; (2) road design, construction, and maintenance practices; and (3) the architecture and implementation of intelligent transportation system technologies, pursuant to section 1914 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU).

DATES: The seventh meeting of the MAC–FHWA is scheduled for November 5, 2009, from 9 a.m. until 5 p.m.

ADDRESSES: The seventh MAC–FHWA meeting will be held at the Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Griffith, the Designated Federal Official, Office of Safety, (202) 366–2288, *mike.griffith@dot.gov,* or Mr. Keith D. Williams, Office of Safety,

(202) 366–9212, *keith.williams@dot.gov,* FHWA, 1200 New Jersey Avenue, SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

On August 10, 2005, the President signed into law the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59, 119 Stat. 1144). Section 1914 of SAFETEA–LU mandates the establishment of the Motorcyclist Advisory Council as follows: ''The Secretary, acting through the Administrator of the Federal Highway Administration, in consultation with the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, shall appoint a Motorcyclist Advisory Council to coordinate with and advise the Administrator on infrastructure issues of concern to motorcyclists, including—

(1) Barrier design;

(2) Road design, construction, and maintenance practices; and

(3) The architecture and implementation of intelligent transportation system technologies.''

In addition, section 1914 specifies the membership of the council: ''The Council shall consist of not more than 10 members of the motorcycling community with professional expertise in national motorcyclist safety advocacy, including—

(1) At least—

(A) One member recommended by a national motorcyclist association;

(B) One member recommended by a national motorcycle rider's foundation;

(C) One representative of the National Association of State Motorcycle Safety Administrators;

(D) Two members of State motorcyclists' organizations;

(E) One member recommended by a national organization that represents the builders of highway infrastructure;

(F) One member recommended by a national association that represents the traffic safety systems industry; and

(G) One member of a national safety organization; and

(2) At least one, and not more than two, motorcyclists who are traffic system design engineers or State transportation department officials.''

To carry out this requirement, the FHWA published a notice of intent to form an advisory committee in the **Federal Register** on December 23, 2005 (70 FR 76353). This notice, consistent with the requirements of the Federal Advisory Committee Act (FACA), announced the establishment of the Council and invited comments and nominations for membership. The FHWA announced the ten members selected to the Council in the **Federal Register** on October 5, 2006 (71 FR 58903). An electronic copy of this document and the previous **Federal Register** notices associated with the MAC–FHWA can be downloaded through the Federal eRulemaking Portal at: *http://www.regulations.gov* and the Office of the Federal Register's home page at: *http://www.archives.gov/federal_register.*

The FHWA anticipates that the MAC–FHWA will meet at least once a year, with meetings held in the Washington, DC, metropolitan area and the FHWA will publish notices in the **Federal Register** to announce the times, dates, and locations of these meetings. Meetings of the Council are open to the public and time will be provided in each meeting's schedule for comments by members of the public. Attendance will necessarily be limited by the size of the meeting room. Members of the public may present oral or written comments at the meeting or may present written materials by providing copies to Ms. Fran Bents, Westat, 1650 Research Boulevard, Rockville, MD 20850–3195, (240) 314–7557, ten (10) days prior to the meeting.

The agenda topics for the meetings will include a discussion of the following issues: (1) Barrier design; (2) road design, construction, and maintenance practices; and (3) the architecture and implementation of intelligent transportation system technologies.

Conclusion

The seventh meeting of the Motorcyclist Advisory Council to the Federal Highway Administration will be held on November 5, 2009, at the Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, VA 22202 from 9 a.m. until 5 p.m.

(Authority: Section 1914 of Pub. L. 109–59; Pub. L. 92–463, 5 U.S.C., App. II § 1)

Issued on: October 19, 2009.

Victor M. Mendez,

Administrator.

[FR Doc. E9–25521 Filed 10–22–09; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Eleventh Meeting: RTCA Special Committee 216: Aeronautical Systems Security

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 216: Aeronautical Systems Security meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 216: Aeronautical Systems Security.

DATES: The meeting will be held November 18–19, 2009 from 9 a.m. to 5 p.m. and November 20, 2009 from 9 a.m. to 12 p.m. Foreign nationals planning to attend should register one week in advance and contact RTCA for SC–216 registration details.

Note: Foreign nationals will need to provide (*Daniel.p.johnson@honeywell.com*) with the following information at least one week prior to the meeting:

- First Name.
- Last Name.
- Company Name.
- Address of their Company.
- Phone Number.
- Honeywell EID (if applicable)—this can be left blank.
- Citizenship.
- Green Card, Asylee/Refugee number (only if they have one).
- Passport Number.
- Passport Expiration Date.
- VISA Number (only if they have one).
- VISA Type (only if they have one).
- VISA Expiration Date (only if they have one).
- Age (enter only if under the age of 18).
- Did this guest work directly for Honeywell in the past as an employee? Answer ''Yes'' or ''No.''
- Does this guest work in a sales capacity for their company? Answer ''Yes'' or ''No.''

ADDRESSES: The meeting will be held at Honeywell Aerospace Deer Valley Facility, 21111 N. 19th Avenue, Phoenix, AZ. Check-in at Visitor's Entrance, you will be directed from there.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC, 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–

463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 216/Aeronautical Systems Security meeting. The agenda will include:

- Welcome/Introductions/Administrative Remarks.
- Agenda Overview and Approval of the Summary of the 10th meeting held September 1, 2009, (RTCA Paper No. 213–09/SC216–021).
- Report on the PMC/ICC action on TOR.
- EUROCAE WG–72 Report.
- Subgroup and Action Item Reports.
- Subgroup Meetings/Break-outs.
- Subgroup Reports on Break-outs.
- Establish Dates, Location, and Agenda for Next Meeting(s).
- Any Other Business.

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on October 14, 2009.

Meredith Gibbs,

Staff Specialist, RTCA Advisory Committee.

[FR Doc. E9–25497 Filed 10–22–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC–F–21037]

Francis W. Sherman—Control—Evergreen Trails, Inc., Horizon Coach Lines, Ltd., and Cabana Coaches, LLC

AGENCY: Surface Transportation Board.

ACTION: Notice tentatively approving finance transaction.

SUMMARY: Francis W. Sherman (FWS), a noncarrier, has filed an application under 49 U.S.C. 14303 to acquire indirect control (through stock purchase) of Evergreen Trails, Inc. (Evergreen), and Horizon Coach Lines, Ltd. (Horizon), and to continue in control of Cabana Coaches, LLC (Cabana). Persons wishing to oppose the application must follow the rules at 49 CFR 1182.5 and 1182.8. The Board has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments must be filed by December 7, 2009. Applicant may file a reply by December 22, 2009. If no comments are filed by December 7, 2009, this notice is effective on that date.

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket No. MC–F–21037 to: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, send one copy of comments to applicant's representatives: Michael L. Jennings, Esq., Ober Kaler Grimes & Shriver, a Professional Corporation, 120 East Baltimore Street, Baltimore, MD 21202, and Edward D. Greenberg, Esq., GKG Law, P.C., 1054 Thirty-First Street, NW., Washington, DC 20007.

FOR FURTHER INFORMATION CONTACT: Julia Farr, (202) 245–0359 [Federal Information Relay (FIRS) for the hearing impaired: 1–800–877–8339].

SUPPLEMENTARY INFORMATION: FWS currently controls one Federal Motor Carrier Safety Administration (FMCSA) registered passenger carrier, Cabana (MC–646780), a Florida limited liability company. Under the proposed transaction, FWS is seeking to acquire indirect control of Evergreen (MC–107638), a Washington corporation, and Horizon (MC–144339), a corporation formed under the laws of the Province of British Columbia, Canada (collectively, the acquired carriers),[1] both of which are FMCSA registered motor passenger carriers, and to continue in control of Cabana. According to FWS, pursuant to the Board's rules at 49 CFR 1013, all of his interests in Cabana currently are being held in a voting trust to avoid any unlawful control pending disposition of this proceeding. FWS states that the annual aggregate gross operating revenues of Cabana and the acquired carriers exceed the $2 million jurisdictional threshold of 49 U.S.C. 14303(g).

Following approval and consummation of the transaction, FWS states that he will indirectly own all of the outstanding shares of stock in Evergreen and Horizon through his ownership of all of the outstanding shares of stock in TMS West Coast, Inc. (TMS), a Washington corporation, and TMS Canada Holdings Ltd. (TMS–CA), a British Columbia corporation. FWS indicates that TMS will acquire all of the outstanding shares of Evergreen and TMS–CA will acquire all of the outstanding shares of Horizon.

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction we find consistent with the public interest, taking into consideration at least: (1) The effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.

Applicant has submitted information, as required by 49 CFR 1182.2(a)(7), to demonstrate that the proposed acquisition of control is consistent with the public interest under 49 U.S.C. 14303(b). Applicant states that the proposed transaction will have no impact on the adequacy of transportation services available to the public, that the operations of the carriers involved will remain unchanged, that there are no fixed charges associated with the proposed transaction, and that no carrier employees will be adversely affected by the transaction, except for a small number of administrative employees who may lose their positions so that the acquired carriers can operate with increased efficiency. In addition, applicant has submitted all of the other statements and certifications required by 49 CFR 1182.2. Additional information, including a copy of the application, may be obtained from applicant's representatives.

On the basis of the application, we find that the proposed acquisition of control is consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated, and unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. *See* 49 CFR 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this notice will take effect automatically and will be the final Board action.

Board decisions and notices are available on our website at *http://www.stb.dot.gov*.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The proposed finance transaction is approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this notice will be deemed as having been vacated.

[1] FWS states that, prior to this transaction, the acquired carriers were a part of the common control structure of Holland America Line Inc. *See Holland America Line Inc.—Acquisition—Royal Hyway Tours, Inc.,* STB Docket No. MC–F–21033 (STB served Apr. 3, 2009); *Holland America Line Inc.—Control—Westours Motor Coaches, Inc., Evergreen Trails, Inc., Westmark Hotels of Canada, Ltd., Horizon Coach Lines, Ltd., and Discover Alaska Tours, Inc.,* STB Docket No. MC–F–21026 (STB served Mar. 21, 2008).

3. This notice will be effective on December 7, 2009, unless timely opposing comments are filed.

4. A copy of this notice will be served on: (1) The U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 950 Pennsylvania Avenue, NW., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue, SE., Washington, DC 20590.

Decided: October 19, 2009.

By the Board, Chairman Elliott, Vice Chairman Nottingham, and Commissioner Mulvey.

Kulunie L. Cannon,

Clearance Clerk.

[FR Doc. E9–25506 Filed 10–22–09; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

October 19, 2009.

The Department of Treasury will submit the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, and 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before November 23, 2009 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0975.

Type of Review: Revision.

Title: Estimated Tax for Corporations.

Form: 1120–W; Schedule A (Part 1); Schedule A (Part II); Schedule A (Part III).

Description: Form 1120–W is used by corporations to figure estimated tax liability and the amount of each installment payment. Form 1120–W is a worksheet only. It is not to be filed with the Internal Revenue Service.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 12,832,766 hours.

OMB Number: 1545–0712.

Type of Review: Extension.

Title: Risk Limitations.

Form: 6198.

Description: IRC section 465 requires taxpayers to limit their at-risk loss to the lesser of the loss or their amount at risk. Form 6198 is used by taxpayers to determine their deductible loss and by IRS to verify the amount deducted.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 914,419 hours.

OMB Number: 1545–0976.

Type of Review: Revision.

Title: Estimated Tax on Unrelated Business Taxable Income for Tax-Exempt Organizations.

Form: 990–W; Schedule A (Part I); Schedule A (Part II); Schedule A (Part III).

Description: Form 990–W is used by tax-exempt trusts and tax-exempt corporations to figure estimated tax liability on unrelated business income and on investment income for private foundations and the amount of each installment payment. Form 990–W is a worksheet only. It is not required to be filed.

Respondents: Businesses or other for-profits; Not-for-profit institutions.

Estimated Total Burden Hours: 220,310 hours.

OMB Number: 1545–2010.

Type of Review: Extension.

Title: Employer's Annual Federal Tax Return (American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands).

Form: 944–SS; 944–PR.

Description: Form 944–SS and Form 944–PR are designed so the smallest employers (those whose annual liability for social security and Medicare taxes is $1,000 or less) will have to file and pay these taxes only once a year instead of every quarter.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 191,200 hours.

OMB Number: 1545–1818.

Type of Review: Extension.

Title: Rev. Proc. 2003–38, Commercial Revitalization Deduction.

Description: Pursuant to Sec. 1400I of the Internal Revenue Code, this procedure provides the time and manner for states to make allocations of commercial revitalization expenditures to a new or substantially rehabilitated building that is placed in service in a renewal community.

Respondents: State, Local, and Tribal Governments.

Estimated Total Burden Hours: 200 hours.

OMB Number: 1545–1834.

Type of Review: Extension.

Title: Revenue Procedure 2003–39, Section 1031 LKE (Like-Kind Exchanges) Auto Leasing Programs.

Description: Revenue Procedure 2003–39 provides safe harbors for certain aspects of the qualification under Sec. 1031 of certain exchanges of property pursuant to LKE Programs for federal income tax purposes.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 8,600 hours.

OMB Number: 1545–1502.

Type of Review: Extension.

Title: Form 5304–SIMPLE; Form 5305–SIMPLE; Notice 98–4.

Form: 5304–SIMPLE; 5305 SIMPLE.

Description: Forms 5304–SIMPLE and 5035–SIMPLE are used by an employer to permit employees to make salary reduction contributions to a savings incentive match plan (SIMPLE IRA) described in Code section 408(p). These forms are not to be filed with IRS, but to be retained in the employers' records as proof of establishing such a plan, thereby justifying a deduction for contributions made to the SIMPLE IRA. The data is used to verify the deduction. Notice 98–4 provides guidance for employers and trustees regarding how they can comply with the requirements of Code section 408(p) in establishing and maintaining a SIMPLE Plan

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 2,113,000 hours.

OMB Number: 1545–1069.

Type of Review: Extension.

Title: EE–175–86 (Final) Certain Cash or Deferred Arrangements and Employee and Matching Contributions under Employee Plans: REG–108639–99 (NPRM) Retirement Plans; Cash or Deferred Arrangements.

Description: The IRS needs this information to insure compliance with sections 401(k), 401(m), and 4979 of the Internal Revenue Code. Certain additional taxes may be imposed if sections 401(k) and 401(m) are not complied with.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 1,060,000 hours.

OMB Number: 1545–1699.

Type of Review: Extension.

Title: REG–103805–99 (Final) Agent for Consolidated Group.

Description: The information is needed in order for a terminating common parent of a consolidated group to designate a substitute agent for the

group and receive approval of the Commissioner, or for a default substitute agent to notify the Commissioner that it is the default substitute agent, pursuant to Trea. Reg. Sec. 1.1502–77(d). The Commissioner will use the information to determine whether to approve the designation of the substitute agent (if approval is required) and to change the IRS's records to reflect the information about the substitute agent.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 200 hours.

OMB Number: 1545–2000.

Type of Review: Extension.

Title: Notice 2006–40, Credit for Production from Advanced Nuclear Facilities.

Description: This notice provides the time and manner for a taxpayer to apply for an allocation of the national megawatt capacity limitation under Sec. 45J of the Internal Revenue Code. This information will be used to determine the portion of the national megawatt capacity limitation to which a taxpayer is entitled. The likely respondents are corporations and partnerships.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 600 hours.

OMB Number: 1545–1690.

Type of Review: Extension.

Title: Notice 2000–28 Coal Exports.

Description: Notice 2000–28 provides guidance relating to the coal excise tax imposed by section 4121 of the Internal Revenue Code. The notice provides rules under the Code for making a nontaxable sale of coal for export or for obtaining a credit or refund when tax has been paid with respect to a nontaxable sale or coal for export.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 400 hours.

OMB Number: 1545–0902.

Type of Review: Extension.

Title: Form 8288, U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests: Form 8288–A, Statement of Withholding on Dispositions by Foreign Persons.

Form: 8288; 8288–A.

Description: Form 8288 is used by the withholding agent to report and transmit the withholding to IRS. Form 8288–A is used to validate the withholding and to return a copy to the transferor for his/her use in filing a tax return.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 243,675 hours.

OMB Number: 1545–1538.

Type of Review: Extension.

Title: Notice 97–34, Information Reporting on Transactions With Foreign Trusts and on Large Foreign Gifts.

Description: This notice provides guidance on the foreign trust and foreign gift information reporting provisions contained in the Small Business Job Protection Act of 1996.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 3,750 hours.

OMB Number: 1545–1444.

Type of Review: Extension.

Title: Empowerment Zone Employment Credit.

Form: 8844.

Description: Employers who hire employees who live and work in one of the 11 designated empowerment zones can receive a tax credit for the first $15,000 of wages paid to each employee. The credit is applicable from the date of designation through the year 2004.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 237,600 hours.

OMB Number: 1545–1020.

Type of Review: Extension.

Title: Allocation of Estimated Tax Payments to Beneficiaries.

Form: 1041–T.

Description: This form was developed to allow a trustee of a trust or an executor of an estate to make an election under IRC section 643(g) to allocate any payment of estimated tax to a beneficiary(ies). This form serves as a transmittal so that Service Center personnel can determine the correct amounts that are to be transferred from the fiduciary's account to the individual's account.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 990 hours.

OMB Number: 1545–0129.

Type of Review: Extension.

Title: U.S. Income Tax Return for Certain Political Organizations.

Form: 1120–POL.

Description: Certain political organizations file Form 1120–POL to report the tax imposed by section 527. The form is used to designate a principal business campaign committee that is subject to a lower rate of tax under section 527(h). IRS uses Form 1120–POL to determine if the proper tax was paid.

Respondents: Not-for-profit institutions.

Estimated Total Burden Hours: 239,150 hours.

OMB Number: 1545–2123.

Type of Review: Extension.

Title: Notice 2009–85, Guidance for Expatriates and Recipients of Foreign Source Gifts and Bequests under Sections 877A, 2801, and 6039G.

Description: Section 301 of the Heroes Earnings Assistance and Relief Tax Act of 2008 (the ''Act'') enacted new sections 877A and 2801 of the Internal Revenue Code (''Code''), amended sections 6039G and 7701(a), made conforming amendments to sections 877(e) and 7701(b), and repealed section 7701(n). This notice provides guidance regarding certain federal tax consequences under these sections for individuals who renounce U.S. citizenship or cease to be taxed as lawful permanent residents of the United States.

Respondents: Individuals or Households.

Estimated Total Burden Hours: 420 hours.

OMB Number: 1545–0228.

Type of Review: Extension.

Title: Installment Sale Income.

Form: 6252.

Description: Information is needed to figure and report an installment sale for a casual or incidental sale of personal property, and a sale of real property by someone not in the business of selling real estate. Data is used to determine whether the installment sale has been properly reported and the correct amount of profit is included in income on the taxpayer's return.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 1,597,008 hours.

OMB Number: 1545–0940.

Type of Review: Extension.

Title: LR–185–84 (Final) Election for $10 million Limitation on Exempt Small Issues of Industrial Development Bonds; Supplemental Capital Expenditure Statements.

Description: The regulation liberalizes the procedure by which the state or local government issuer of an exempt small issue of tax-exempt bonds elects the $10 million limitation upon the size of such issue and deletes the requirement to file certain supplemental capital expenditure statements.

Respondents: State, Local, and Tribal Governments.

Estimated Total Burden Hours: 1,000 hours.

OMB Number: 1545–0950.

Type of Review: Extension.

Title: Application for Enrollment to Practice before the Internal Revenue Service.

Form: 23; 23–EP.

Description: Form 23 must be completed by those who desire to be enrolled to practice before the Internal Revenue Service. The information on the form will be used by the Director of Practice to determine the qualifications and eligibility of applicants for enrollment. Form 23–EP is the application form for Enrolled Retirement Plan Agents (ERPAs).

Respondents: Individuals or Households.

Estimated Total Burden Hours: 1,200 hours.

OMB Number: 1545–1844.

Type of Review: Extension.

Title: Agreement to Mediate.

Form: 13369.

Description: Fast Track Mediation is a dispute resolution process designed to expedite case resolution. In order to avail themselves of this process, taxpayers and Compliance must complete the Agreement to Mediate once an examination or collection determination is made. Once signed by both parties, the Agreement to Mediate will be forwarded to Appeals to schedule a mediation session.

Respondents: Individuals or Households.

Estimated Total Burden Hours: 15 hours.

OMB Number: 1545–1816.

Type of Review: Extension.

Title: REG–103320–00 (TD 9054—Final) Disclosure of Returns and Return Information to Designee of Taxpayer.

Description: Regulation section 301.6103(c)–1 generally authorizes the IRS and its agents to disclose returns and return information to such person or persons as the taxpayer may designate in a written request for or consent to disclosure, or to any other person at the taxpayer's written or nonwritten request to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person. The regulation requires a taxpayer who wishes to authorize disclosure of his or her returns or return information to provide the IRS or its agents with certain information, such as information identifying.

Respondents: Individuals or Households.

Estimated Total Burden Hours: 800 hours.

OMB Number: 1545–2007.

Type of Review: Revision.

Title: Employer's Annual Employment Tax Return.

Form: 944; 944–SP; 944–X.

Description: The information on Form 944 will be collected to ensure the smallest nonagricultural and non-household employers are paying the correct amount of social security tax, Medicare tax, and withheld federal Income tax. Information on line 13 will be used to determine if employers made any required deposits of these taxes.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 14,019,000 hours.

OMB Number: 1545–1826.

Type of Review: Extension.

Title: Excise Tax on Structured Settlement Factoring Transactions.

Form: 8876.

Description: Form 8876 is used to report structured settlement transactions and pay the applicable excise tax.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 560 hours.

OMB Number: 1545–1190.

Type of Review: Extension.

Title: Like-Kind Exchanges.

Form: 8824.

Description: Form 8824 is used by individuals, partnerships, and other entities to report the exchange of business or investment property, and the deferral of gains from such transactions under section 1031. It is also used to report the deferral of gain under section 1043 by members of the executive branch of the Federal government.

Respondents: Individuals or Households.

Estimated Total Burden Hours: 834,979 hours.

OMB Number: 1545–1060.

Type of Review: Extension.

Title: Application for Withholding Certificate for Dispositions by Foreign Persons of U.S. Real Property Interests.

Form: 8288–B.

Description: Form 8288–B is used to apply for a withholding certification from IRS to reduce or eliminate the withholding required by section 1445.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 29,256 hours.

OMB Number: 1545–1835.

Type of Review: Extension.

Title: Form 637 Questionnaires.

Form: 637.

Description: Form 637 Questionnaires will be used to collect information about persons who are registered with the Internal Revenue Service (IRS) in accordance with Internal Revenue Code (IRC) Sec. 4104 or 4222. The information will be used to make an informed decision on whether the applicant/registrant qualifies for registration.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 3,479 hours.

OMB Number: 1545–0991.

Type of Review: Extension.

Title: Application to Participate in the IRS e-file Program.

Form: 8633.

Description: Form 8633 is used by tax preparers, electronic return collectors, software firms, service bureaus and electronic transmitters, as an application to participate in the electronic filing program covering individual income tax returns.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 50,000 hours.

Clearance Officer: R. Joseph Durbala (202) 622–3634, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Shagufta Ahmed (202) 395–7873, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Celina Elphage,

Treasury PRA Clearance Officer.

[FR Doc. E9–25578 Filed 10–22–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–New (VA Form 0913)]

Agency Information Collection (Applicant Background Survey) Activities Under OMB Review

AGENCY: Human Resources and Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Human Resources and Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before November 23, 2009.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov*; or to VA's

OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–New (VA Form 0913)'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, fax (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–New (VA Form 0913).''

SUPPLEMENTARY INFORMATION:

Titles: Applicant Background Survey, VA Form 0913.

OMB Control Number: 2900–New (0913).

Type of Review: New collection.

Abstract: VA Form 0913 will be used to collect data needed for planning and assessing affirmative employment program initiatives. The data will be used to report in an aggregated manner to the Equal Employment Opportunity Commission and to conduct aggregated adverse impact analysis to ensure VA's employment and selection decisions are fair and equitable.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on August 13, 2009, at page 40868.

Affected Public: Individuals or households.

Estimated Total Annual Burden: 1,250.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 15,000.

Dated: October 18, 2009.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. E9–25476 Filed 10–22–09; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0737]

Proposed Information Collection (eBenefits Portal) Activity: Comment Request

AGENCY: Office of Information and Technology, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of Information and Technology (OI&T), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to access the eBenefits portal.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before December 22, 2009.

FOR FURTHER INFORMATION CONTACT: Aiden Barr (0050P4F), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (443) 450–4411, FAX (443) 450–4411 or e-mail *aiden.barr@va.gov.* Please refer to ''OMB Control No. 2900–0737.''

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, OI&T invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of OI&T's functions, including whether the information will have practical utility; (2) the accuracy of OI&T's estimate of the burden of the proposed collection of information; (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 or the use of other forms of information technology.

Title: eBenefits Portal.

OMB Control Number: 2900–0737.

Type of Review: Extension of a currently approved collection.

Abstract: The eBenefits portal, a joint project between the VA and DoD, is intended to serve as a single point of entry for benefits information. Users include members of the armed forces, veterans, wounded warriors, family members, delegates, and caregivers. Users wishing to access the full functionality of the eBenefits portal will register for a single sign-on credential that will ultimately be shared by other VA and DoD portals. The eBenefits portal allows authenticated users to create profiles for themselves so they can see a customized view of their homepage, receive personalized alerts, view a calendar of appointments, view content related to their benefits, and opt into other individualized features. Profiles will initially be populated with data from the existing Defense Enrollment Eligibility Reporting database, but will also offer users the option to indicate preferences and individual details that will enable the portal to deliver personalized information.

Affected Public: Individuals or households.

Estimated Annual Burden: 225,000 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 225,000.

Dated: October 18, 2009.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. E9–25475 Filed 10–22–09; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Research Advisory Committee on Gulf War Veterans' Illnesses; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Research Advisory Committee on Gulf War Veterans' Illnesses will meet on November 2–3, 2009, in Room 230 at the Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC. The sessions will start at 8 a.m. each day and end at 5:15 p.m. on November 2 and at 1 p.m. on November 3. The meeting is open to the public.

The purpose of the Committee is to provide advice and make recommendations to the Secretary of Veterans Affairs on proposed research studies, research plans and research strategies relating to the health consequences of military service in the Southwest Asia theater of operations during the Gulf War.

The Committee will review VA program activities related to Gulf War Veterans' illnesses and updates on relevant scientific research published since the last Committee meeting. Additionally, there will be presentations and discussion of background information on the Gulf War and Gulf War Veterans' illnesses, chronic health effects of exposures to insecticides and pesticides, potential treatments for fibromyalgia and symptoms affecting ill Gulf War Veterans, and discussion of Committee business and activities.

Public comments will be received at 4:45 until 5:15 p.m. on November 2 and at 12:30 until 1 p.m. on November 3. Public comments will be limited to five minutes each. A sign-up sheet will be available at the meeting. Individuals wishing to make oral statements before the Committee will be accommodated on a first-come, first-serve basis. Individuals who speak are invited to submit a 1- to 2-page summary of their comments at the time of the meeting for inclusion in the official meeting record. Members of the public may also submit written statements for the Committee's review to Dr. Roberta White, Chair, Department of Environmental Health, Boston University School of Public Health, 715 Albany St., T2E, Boston, MA 02118, or at *rwhite@bu.edu.*

Any member of the public seeking additional information should contact Dr. White, Scientific Director, at (617) 638–4620 or Dr. William Goldberg, Designated Federal Officer, at (202) 461–1667.

Dated: October 19, 2009.

By direction of the Secretary.

Vivian Drake,

Acting Committee Management Officer.

[FR Doc. E9–25479 Filed 10–22–09; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Friday,
October 23, 2009

Part II

Department of Housing and Urban Development

24 CFR Part 1003

Regulatory Reporting Requirements for the Indian Community Development Block Grant Program; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 1003

[Docket No. FR–5232–P–01]

RIN 2577–AC79

Regulatory Reporting Requirements for the Indian Community Development Block Grant Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the reporting requirements for the Indian Community Development Block Grant (ICDBG) program. First, the rule would provide for submission of a single annual report on the hiring of minority business enterprises, due to HUD each October. Currently, ICDBG grantees are required to report on these activities on a semi-annual basis, with reports being due to HUD on April 10 and October 10 of each year. Second, the proposed rule would require ICDBG grantees to use the Logic Model form developed as part of HUD's Notice of Funding Availability (NOFA) process. Requiring use of the Logic Model would conform ICDBG reporting requirements to those of other HUD competitive funding programs and would help ensure uniformity in the information provided by ICDBG grantees on performance goals, thereby facilitating the evaluation of grantee performance.

DATES: *Comment Due Date:* December 22, 2009.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 10276, Washington, DC 20410–0500. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 10276, Washington, DC 20410–0500.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at h*www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *www.regulations.gov* Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the Federal Information Relay Service, toll free, at 800–877–8339. Copies of all comments submitted are available for inspection and downloading at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Deborah Lalancette, Director, Office of Grants Management, Office of Native American Programs, Department of Housing and Urban Development, 1670 Broadway, 23rd Floor, Denver, CO 80202, telephone number 303–675–1600 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number through TTY by calling the Federal Information Relay Service, toll free, at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Indian Community Development Block Grant Program

Title I of the Housing and Community Development Act of 1974, as amended, (42 U.S.C. 5301–5320) (HCD Act) establishes the statutory framework for the Community Development Block Grant (CDBG) program. Section 106(a)(1) of the 1974 HCD Act authorizes grants to Indian tribes for the Indian CDBG (ICDBG) program. The purpose of the ICDBG program is the development of viable Indian and Alaska Native communities, including the creation of decent housing, suitable living environments, and economic opportunities primarily for persons with low and moderate incomes.

HUD's regulations implementing the ICDBG program are located at 24 CFR part 1003 (entitled ''Community Development Block Grants for Indian Tribes and Alaska Native Villages''). Section 1003.506 of the ICDBG program regulations establishes several reporting requirements for ICDBG grantees. Specifically, grantees are required to submit an annual status and evaluation report (ASER) on previously funded open grants 45 days after the end of the fiscal year (FY) and upon grant closeout (§ 1003.506(a)). As more fully described below, ICDBG grantees are also required to submit two minority business enterprise reports each year (§ 1003.506(b)).

B. Minority Business Enterprise Reports

The governmentwide administrative requirements for grants and cooperative agreements to state, local, and federally recognized Indian tribal governments, codified by HUD at 24 CFR part 85, require that grantees and subgrantees ''take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used whenever possible'' (§ 85.36(e)). Consistent with these regulations, § 1003.506(b) requires that ICDBG grantees report on these activities on a semiannual basis, with reports being due to HUD on April 10 and October 10 of each year. Upon reconsideration, HUD believes that a single report would be less burdensome for grantees to prepare and suffice for HUD to monitor compliance with the minority business enterprise requirements of 24 CFR 85.36(e). This proposed rule would, therefore, revise § 1003.506(b) to provide for a single annual report to be due each year by October 10.

C. NOFA Logic Model

HUD announces the availability of competitive grant funding through issuance of NOFAs. The most recent ICDBG NOFA, announcing the availability of ICDBG funding for FY2009, was issued on May 29, 2009, with an application deadline of August 7, 2009 (see *http://www.hud.gov/offices/adm/grants/nofa09/icdbgsec.pdf*).

HUD's FY2004 NOFA process introduced a new planning form known as the Logic Model (form HUD–96010). Most grantees are required to submit a Logic Model form that identifies the problem or need that the grant will

address, the services or activities to be provided with grant funding, and the reporting tools that will be used to measure results achieved. As noted above, ICDBG grantees are required to report on performance outputs and outcomes as part of their ASER; however, Indian tribes have not been required to use the Logic Model form. Nevertheless, several ICDBG grantees have chosen to use the Logic Model form.

This exemption for Indian tribes was based on HUD's desire to consult with Indian tribes before making the form HUD–96010 a mandatory reporting requirement for ICDBG grant funding. As more fully described in section II of this preamble, entitled ''Tribal Consultation,'' HUD undertook consultation with Indian tribes on the Logic Model form. After consideration of the views and opinions expressed during the consultation process, HUD is announcing its intent, through publication of this proposed rule, to require use of the Logic Model as an ICDBG program requirement. HUD received only three comments in response to its first request for comments on this subject. The proposed rule continues HUD's process of developing the regulatory changes with active tribal participation, by soliciting additional comments from Indian tribes on the mandatory use of the Logic Model in the ICDBG program.

As noted, several Indian tribes already use form HUD–96010. The required use of the Logic Model form would help ensure uniformity in the information provided by ICDBG grantees on performance goals, and, thereby, facilitate the evaluation of grantee performance. The use of the Logic Model would also conform ICDBG program requirements to those of other HUD competitive funding programs, bringing greater consistency and uniformity in the administration of HUD grants.

The Logic Model would be included as part of the ASER requirement, which is codified at § 1003.506(a). Specifically, the proposed rule would add a new paragraph (a)(3) to § 1003.506 requiring that the ASER report contain ''data on program outputs and outcomes in a form prescribed by HUD'' (i.e., the Logic Model form HUD–96010). The current § 1003.506(a)(3) concerning the required grantee assessment of the effectiveness of a completed project would be redesignated as paragraph (a)(4) of § 1003.506.

II. Tribal Consultation

It is HUD's policy to consult with Indian tribes on matters that have substantial direct effects on Indian tribal governments. Accordingly, on September 7, 2007, HUD sent letters to all eligible funding recipients under the ICDBG program informing them of the nature of the forthcoming rule and soliciting comments. The proposed changes did not generate significant interest among Indian tribes. HUD received three responses to the September 7, 2007, letter. One of the tribes expressed full support for the changes to the ICDBG reporting requirements. A second tribe expressed support for the change to the minority enterprise business reports, but objected to the required use of the Logic Model. The third Indian tribe wrote that the Logic Model requirement would impose a burden on small tribes.

HUD appreciates the responses received on the September 7, 2007, consultation letter. The Department has considered the issues raised by the tribes and, for the reasons discussed above in this preamble, continues to believe that the proposed changes would help ensure uniformity in the information provided by ICDBG grantees on performance goals and facilitate the accurate evaluation of grant performance. HUD is issuing this proposed rule to provide Indian tribes with an additional opportunity to comment on the required use of the Logic Model in the ICDBG program. HUD welcomes such comment, and all comments will be considered in the development of the final rule.

III. Findings and Certifications

Paperwork Reduction Act

The information collection requirements for the ICDBG program have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB control numbers 2535–0117 and 2535–0114. In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number.

The burden of the information collections in this proposed rule is estimated as follows:

REPORTING AND RECORDKEEPING BURDEN

Information collection	Number of respondents	Response frequency (average)	Total annual responses	Burden hours per response	Total annual hours
Minority Business Enterprise Report	240	annually	240	1	240
Logic Model Report	200	annually	200	5.75	1,150

Total estimated burden hours: 1,390.

In accordance with 5 CFR 1320.8(d)(1), HUD is soliciting comments from members of the public and affected agencies concerning this collection of information to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize, for those who are to respond, the burden of the collection of information, through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Interested persons are invited to submit comments regarding the information collection requirements in this rule. Comments must refer to the proposal by name and docket number (FR–5232) and must be sent to:

HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Fax: 202–395–6947

and

Reports Liaison Officer, Office of the Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4116, Washington, DC 20410.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The proposed rule would not impose any economic burdens on small entities. Rather, the proposed regulatory amendments would simplify and reduce the reporting requirements for ICDBG program grantees. As discussed above in this preamble, the proposed rule would reduce the number of required small business enterprise reports from two to one, submitted each October. The proposed rule would also require the use of the Logic Model form in the preparation of the ASER, which ICDBG grantees already are required by regulation to submit to HUD.

As noted, several grantees already are using the Logic Model, which has been a familiar part of the NOFA process since FY2004. The required use of the Logic Model would conform the ICDBG reporting requirements to those of other HUD competitive funding programs. This proposed change will help ensure uniformity in the information provided by ICDBG grantees on performance goals, and, thereby, facilitate the evaluation of grantee performance.

Notwithstanding HUD's determination that this rule does not have a significant economic impact on a substantial number of small entities, HUD specifically invites comment regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in the preamble.

Environmental Impact

This proposed rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction; or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This proposed rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments nor preempt state law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and on the private sector. This proposed rule does not impose any federal mandates on any state, local, or tribal governments, or on the private sector, within the meaning of UMRA.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number for the ICDBG program is 14.862.

List of Subjects in 24 CFR Part 1003

Alaska, Community development block grants, Grant programs—housing and community development, Grant programs—Indians, Indians, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, HUD proposes to amend 24 CFR part 1003 to read as follows:

PART 1003—COMMUNITY DEVELOPMENT BLOCK GRANTS FOR INDIAN TRIBES AND ALASKA NATIVE VILLAGES

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

Authority: 42 U.S.C. 3535(d) and 5301 *et seq.*

2. In § 1003.506, redesignate paragraph (a)(3) as paragraph (a)(4), add a new paragraph (a)(3), and revise paragraph (b), to read as follows:

§ 1003.506 Reports.

(a) * * *

(3) *Program performance.* Data on program outputs and outcomes, in a form prescribed by HUD.

* * * * *

(b) *Minority business enterprise reports.* Grantees shall submit to HUD, for receipt by October 10 of each year, a report on contract and subcontract activity during the fiscal year.

Dated: September 23, 2009.

Sandra B. Henriquez,

Assistant Secretary for Public and Indian Housing.

[FR Doc. E9–25569 Filed 10–22–09; 8:45 am]

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Federal Register

Friday,
October 23, 2009

Part III

The President

Proclamation 8440—National Character Counts Week, 2009

Proclamation 8441—United Nations Day, 2009

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Presidential Documents

Title 3—

The President

Proclamation 8440 of October 19, 2009

National Character Counts Week, 2009

By the President of the United States of America

A Proclamation

In communities across America, people are working together to see our country through challenging times—educating our children, caring for the sick, and extending a hand to those in need. They remind us that the true character of our Nation is revealed by the good we do when the moment is challenging. During National Character Counts Week, we pay tribute to the men and women who are selflessly serving others, inspiring and encouraging younger generations to develop the compassion, dedication, and strength of character that is the mark of our great Nation.

Instilling sound character and a sense of responsibility in our children is critical to our country's future. When we teach young people about time-honored values like integrity and humility, we promote good citizenship and civic virtues that will guide them through life and sustain our democracy. Parents play an integral role in cultivating the character of their children, and they must help them understand the consequences of poor choices and the rewards of healthy, sound decisions. Teachers, clergy, local leaders, and countless other volunteers can also be role models and mentors for America's youth as they devote their time and energy to serving their communities. The brave members of our Armed Forces who sacrifice every day for our Nation are tremendous examples of strong character for us all to follow.

Throughout our history, the pursuit of our highest ideals—hard work, curiosity, tolerance, and patriotism—has been the quiet force behind our progress. As Americans, we must hold true to these fundamental values that have propelled us forward time and again to adapt and lead in an ever-changing world. National Character Counts week is an opportunity to recognize the depth of America's character and to honor those who pass on our values to future generations.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 18 through October 24, 2009, as National Character Counts Week. I call upon public officials, educators, parents, students, and all Americans to observe this week with appropriate ceremonies, activities, and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of October, in the year of our Lord two thousand nine, and of the Independence of the United States of America the two hundred and thirty-fourth.

[FR Doc. E9–25764
Filed 10–22–09; 11:15 am]
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Presidential Documents

Proclamation 8441 of October 19, 2009

United Nations Day, 2009

By the President of the United States of America

A Proclamation

The United Nations was created 64 years ago by men and women from every corner of the world. These architects of international cooperation acted out of an idealism rooted in the hard-earned lessons of war. They had the wisdom to understand that nations could do far more to advance their interests by acting together than by letting themselves be split apart. The original 51 member nations were united around a commitment to peace, humanity, and justice.

Today, with 192 member states, the United Nations is the principle forum for all nations, large and small, to work in concert to meet the global challenges no nation can confront alone. The U.N. is vital to America's efforts to create a better, safer world. Through peacekeeping missions that have saved so many lives and averted so many wars; lifesaving humanitarian work; critical development activities; and its unique legitimacy, the U.N. can function as a forum that brings all nations together.

The U.N. sometimes struggles to live up to its founding ideals, as it can only be effective if its member states choose to meet their own responsibilities. At its best, this indispensible, if imperfect, institution helps to resolve conflicts and rebuild shattered societies; to lay the foundations of democracy, human rights, and development; and to establish conditions in which people can live in dignity and mutual respect. The member states of the U.N. have an obligation to demonstrate the will and leadership to match the aspirations of all. Now is the time for all of us to assume our share of responsibility to meet global challenges.

Committed in our resolve to create a world our people deserve, we look to the future with confidence. As expressed in the founding values of the United Nations, we share a common security and are unified by our common humanity. This truth calls us to work cooperatively with nations from around the globe in the pursuit of peace, economic prosperity, and human opportunity.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 24, 2009, as United Nations Day. I urge the Governors of the 50 States, and the officials of all other areas under the flag of the United States to observe United Nations Day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of October, in the year of our Lord two thousand nine, and of the Independence of the United States of America the two hundred and thirty-fourth.

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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*.

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H.R. 1687/P.L. 111–74
To designate the federally occupied building located at McKinley Avenue and Third Street, SW., Canton, Ohio, as the "Ralph Regula Federal Building and United States Courthouse". (Oct. 19, 2009; 123 Stat. 2080)

H.R. 2053/P.L. 111–75
To designate the United States courthouse located at 525 Magoffin Avenue in El Paso, Texas, as the "Albert Armendariz, Sr., United States Courthouse". (Oct. 19, 2009; 123 Stat. 2081)

H.R. 2121/P.L. 111–76
To authorize the Administrator of General Services to convey a parcel of real property in Galveston, Texas, to the Galveston Historical Foundation. (Oct. 19, 2009; 123 Stat. 2082)

H.R. 2498/P.L. 111–77
To designate the Federal building located at 844 North Rush Street in Chicago, Illinois, as the "William O. Lipinski Federal Building". (Oct. 19, 2009; 123 Stat. 2084)

H.R. 2913/P.L. 111–78
To designate the United States courthouse located at 301 Simonton Street in Key West, Florida, as the "Sidney M. Aronovitz United States Courthouse". (Oct. 19, 2009; 123 Stat. 2085)

S. 1289/P.L. 111–79
Foreign Evidence Request Efficiency Act of 2009 (Oct. 19, 2009; 123 Stat. 2086)

H.R. 2997/P.L. 111–80
Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010 (Oct. 21, 2009; 123 Stat. 2090)

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