



Federal Register

2-3-09

Vol. 74 No. 21

Pages 5899-5982

Tuesday

Feb. 3, 2009



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

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

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

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

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

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

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

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

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

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

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

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche 202-512-1800
Assistance with public subscriptions 202-512-1806

General online information 202-512-1530; 1-888-293-6498

Single copies/back copies:

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

FEDERAL AGENCIES

Subscriptions:

Paper or fiche 202-741-6005
Assistance with Federal agency subscriptions 202-741-6005

FEDERAL REGISTER WORKSHOP

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

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

WHO: Sponsored by the Office of the Federal Register.

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

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

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

WHEN: Tuesday, February 24, 2009
9:00 a.m.–12:30 p.m.

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

RESERVATIONS: (202) 741-6008



Contents

Federal Register

Vol. 74, No. 21

Tuesday, February 3, 2009

Agriculture Department

See Animal and Plant Health Inspection Service

Animal and Plant Health Inspection Service

NOTICES

Implementation of Revised Lacey Act Provisions, 5911–5913

Antitrust Division

NOTICES

National Cooperative Research and Production Act:

ASTM International, 5948

National Cooperative Research Notifications:

Advanced Media Workflow Association, Inc., 5948

Blind or Severely Disabled, Committee for Purchase From People Who Are

See Committee for Purchase From People Who Are Blind or Severely Disabled

Broadcasting Board of Governors

NOTICES

Meetings; Sunshine Act, 5914

Centers for Disease Control and Prevention

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5936–5937

Children and Families Administration

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5937

Civil Rights Commission

NOTICES

Meetings; Sunshine Act, 5914

Commerce Department

See Industry and Security Bureau

See International Trade Administration

See National Oceanic and Atmospheric Administration

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5915–5916

Final Decision and Order:

Wayne LaFleur, 5916–5921

Committee for Purchase From People Who Are Blind or Severely Disabled

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5913–5914

Education Department

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5926

Employment Standards Administration

RULES

Labor Organization Annual Financial Reports, 5899–5900

Energy Department

See Federal Energy Regulatory Commission

Environmental Protection Agency

RULES

Oil Pollution Prevention:

Non-Transportation Related Onshore Facilities; Spill Prevention, Control, and Countermeasure Rule – Final Amendments, 5900–5903

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Worker Protection Standards for Hazardous Waste Operations and Emergency Response, 5931–5932

Meetings:

Board of Scientific Counselors (BOSC), Human Health Subcommittee (Fall 2008 and Winter 2009), 5932–5933

National Advisory Council for Environmental Policy and Technology, 5933

Science Advisory Board Radiation Advisory Committee; Augmented for the Review of EPA's Radiogenic Cancer Risk Assessment, 5934–5935

Executive Office of the President

See Management and Budget Office

See Presidential Documents

Federal Aviation Administration

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Airports Grants Program, 5968–5969

Meetings:

National Parks Overflights Advisory Group Aviation Rulemaking Committee, 5969

Federal Deposit Insurance Corporation

PROPOSED RULES

Interest Rate Restrictions on Institutions That Are Less Than Well-Capitalized, 5904–5908

Federal Election Commission

NOTICES

Meetings; Sunshine Act, 5935

Federal Energy Regulatory Commission

NOTICES

Applications:

Glacier Fork Hydropower, LLC, 5927

Oasis Pipeline, LP and Oasis Pipe Line Company Texas L.P., 5927–5928

Quincy, IL, 5928

Slatersville Hydro, LLC, 5928–5929

Tacoma, WA, 5929–5930

Deferring Technical Conference Date:

Equitrans, L.P., 5930

Filings:

Bonneville Power Administration et al., 5930–5931

Federal Maritime Commission**NOTICES**

Meetings:

Federal Maritime Commission; Cancellation, 5935

Federal Reserve System**NOTICES**

Formations of, Acquisitions by, and Mergers of Bank

Holding Companies, 5935–5936

Proposals to Engage in Permissible Nonbanking Activities

or to Acquire Companies that are Engaged in

Permissible Nonbanking Activities, 5936

Fish and Wildlife Service**PROPOSED RULES**

Endangered and Threatened Wildlife and Plants:

Petition To Reclassify the Wood Bison From Endangered
to Threatened, 5908–5910**NOTICES**

Agency Information Collection Activities; Proposals,

Submissions, and Approvals:

Survey of National Wildlife Refuge Visitors Service

Refuge Visitors, 5940–5941

Meetings:

North American Wetlands Conservation Council, 5941

Foreign Assets Control Office**NOTICES**

Additional Designation of Entities (Pursuant to Executive

Order 12978), 5970–5972

Health and Human Services Department*See* Centers for Disease Control and Prevention*See* Children and Families Administration*See* National Institutes of Health*See* Substance Abuse and Mental Health Services

Administration

Homeland Security Department**RULES**

Documents Acceptable for Employment Eligibility

Verification:

Delay of Effective Date, 5899

Industry and Security Bureau**NOTICES**

Meetings:

Emerging Technology and Research Advisory Committee,
5921

Materials Technical Advisory Committee, 5921–5922

Interior Department*See* Fish and Wildlife Service*See* Land Management Bureau*See* Minerals Management Service*See* National Park Service**International Trade Administration****NOTICES**

Countervailing Duty:

Pasta from Italy, 5922–5924

International Trade Commission**NOTICES**

Investigation:

NI–Resist Piston Inserts from Argentina and Korea, 5946–
5947**Justice Department***See* Antitrust Division**NOTICES**

Consent Decree:

United States v. F.O.F. Inc., 5947–5948

Labor Department*See* Employment Standards Administration**Land Management Bureau****NOTICES**

Meetings:

Wild Horse and Burro Advisory Board, 5941–5942

Realty Actions:

Proposed Sale of Public Lands, Oregon, 5942–5943

Management and Budget Office**NOTICES**

Agency Information Collection Activities; Proposals,

Submissions, and Approvals, 5949–5950

Minerals Management Service**NOTICES**

Agency Information Collection Activities; Proposals,

Submissions, and Approvals:

Historical Well Data Cleanup, 5943–5945

National Institutes of Health**NOTICES**

Meetings:

National Institute of Diabetes and Digestive and Kidney
Diseases, 5937–5938

National Institute on Aging, 5938

National Oceanic and Atmospheric Administration**NOTICES**

Meetings:

Council Coordination Committee, 5924–5925

National Marine Fisheries Service, 5925

New England Fishery Management Council, 5925–5926

National Park Service**NOTICES**

Agency Information Collection Activities; Proposals,

Submissions, and Approvals, 5945–5946

Nuclear Regulatory Commission**NOTICES**

Meetings; Sunshine Act, 5948–5949

Office of Management and Budget*See* Management and Budget Office**Postal Service****NOTICES**

Meetings; Sunshine Act, 5950

Presidential Documents**ADMINISTRATIVE ORDERS**Regulatory Review, Recommendations (Memorandum of
January 30, 2009), 5975–5978

White House Task Force on Middle–Class Working

Families, Establishment (Memorandum of January 30),

5979–5981

Public Health Service*See* Centers for Disease Control and Prevention*See* National Institutes of Health

See Substance Abuse and Mental Health Services Administration

Securities and Exchange Commission

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5950–5951
Self-Regulatory Organizations; Proposed Rule Changes: BATS Exchange, Inc., 5951–5952
NASDAQ Stock Market LLC, 5952–5954
NYSE Arca, Inc., 5954–5958
Options Clearing Corp., 5958–5965

Small Business Administration

NOTICES

Disaster Declarations: New Hampshire, 5965
Meetings: National Women's Business Council, 5965–5966

State Department

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5966–5968

Substance Abuse and Mental Health Services Administration

NOTICES

Current List of Laboratories Which Meet Minimum Standards to Engage in Urine Drug Testing for Federal Agencies, 5938–5940

Surface Transportation Board

NOTICES

Abandonment Exemption: Union Pacific Railroad Co.; Kootenai County, ID, 5969–5970

Release of Waybill Data, 5970

Transportation Department

See Federal Aviation Administration
See Surface Transportation Board

Treasury Department

See Foreign Assets Control Office

Veterans Affairs Department

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals: Claim for Credit of Annual Leave, 5972–5973
Procedures, and Security for Government Financing, 5973
Meetings: Advisory Committee on Gulf War Veterans, 5973

Separate Parts In This Issue

Part II

Presidential Documents, 5975–5981

Reader Aids

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Administrative Orders:

Memorandums:
Memo. of 1/30/20095977
Memo. of 1/30/20095979

8 CFR

274a.....5899

12 CFR

Proposed Rules:

337.....5904

29 CFR

403.....5899
408.....5899

40 CFR

112.....5900

50 CFR

Proposed Rules:

17.....5908

Rules and Regulations

Federal Register

Vol. 74, No. 21

Tuesday, February 3, 2009

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

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

DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 274a

[CIS No. 2441-08; Docket No. USCIS-2008-0001]

RIN 1615-AB69

Documents Acceptable for Employment Eligibility Verification

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Interim rule; delay of effective date.

SUMMARY: U.S. Citizenship and Immigration Services (USCIS), Department of Homeland Security (DHS), is extending the effective date of its interim final rule "Documents Acceptable for Employment Eligibility Verification," for 60 days, from February 2, 2009 to April 3, 2009. This temporary extension will provide DHS with an opportunity for further consideration of this rule. USCIS also is extending the comment period for this rule for 30 days.

DATES: This document is effective January 30, 2009. The effective date of the interim rule amending 8 CFR Part 274a, published on December 17, 2008, at 73 FR 76505, is delayed until April 3, 2009. Written comments must be submitted on or before March 4, 2009.

ADDRESSES: You may submit comments, identified by DHS Docket No. USCIS-2008-0001 by one of the following methods:

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

- *Mail:* Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529-2210. To ensure proper handling, please

reference DHS Docket No. USCIS-2008-0001 on your correspondence. This mailing address may be used for paper, disk, or CD-ROM submissions.

- *Hand Delivery/Courier:* U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529-2210. Contact Telephone Number is (202) 272-8377.

FOR FURTHER INFORMATION CONTACT:

Stephen McHale, Verification Division, U.S. Citizenship and Immigration Services, Department of Homeland Security, 470 L'Enfant Plaza East, SW., Suite 8001, Washington, DC 20529-2610, telephone (888) 464-4218 or e-mail at Everify@dhs.gov.

SUPPLEMENTARY INFORMATION: USCIS published an interim final rule, "Documents Acceptable for Employment Verification," on December 17, 2008, amending its regulations governing the types of acceptable identity and employment authorization documents and receipts that employees may present to their employers for completion of the Form I-9, Employment Eligibility Verification. Under this interim rule, employers will no longer be able to accept expired documents to verify employment authorization on the Form I-9. This rule also adds a new document to the list of acceptable documents that evidence both identity and employment authorization and makes several technical corrections and updates. The rule is scheduled to become effective on February 2, 2009.

During the public comment period for this rulemaking action, which currently concludes on February 2, 2009, USCIS received a number of comments requesting an extension of the effective date. USCIS is extending the comment period for this rule to allow additional public comment on the substantive legal and policy issues under this interim final rule.

The 60-day extension of the effective date of this interim final rule also provides DHS officials the opportunity for further review and consideration of the interim final rule.

January 30, 2009.

Michael Aytes,

Acting Deputy Director, U.S. Citizenship and Immigration Services.

[FR Doc. E9-2360 Filed 1-30-09; 4:15 pm]

BILLING CODE 9111-97-P

DEPARTMENT OF LABOR

Employment Standards Administration

29 CFR Parts 403 and 408

RIN 1215-AB62

Labor Organization Annual Financial Reports

AGENCY: Office of Labor-Management Standards, Employment Standards Administration, Department of Labor.

ACTION: Notice of proposed extension of effective date; request for public comment on legal and policy questions relating to the final rule.

SUMMARY: Consistent with the memorandum of January 20, 2009, from the Assistant to the President and Chief of Staff, entitled "Regulatory Review" and the memorandum of January 21, 2009, from the Director of the Office of Management and Budget (OMB), entitled "Implementation of Memorandum Concerning Regulatory Review," this document seeks public comment on a proposal to delay for 60 days the effective date of the final rule, Labor Organization Annual Financial Reports, published in the **Federal Register** on January 21, 2009. The rule revised Form LM-2 and established a procedure whereby the Department may revoke, when warranted, the authorization to file the simplified report Form LM-3. This document proposes to extend the effective date until April 21, 2009. The Department seeks comments on whether or not it should delay the effective date of the final rule in order to provide an opportunity for further review and consideration of the questions of law and policy raised by it. For that reason, the Department also seeks comments generally on the rule, including comments on the merits of rescinding or retaining the rule.

DATES: Labor Organization Annual Financial Reports, published in the **Federal Register** on January 21, 2009 (74 FR 3677), is to take effect on

February 20, 2009. The comment period for the extension of the effective date of the final rule will close on February 13, 2009. The comment period for providing comment on legal and policy questions relating to the rule itself will close on March 5, 2009.

ADDRESSES: You may submit comments, identified by RIN 1215-AB62, only by the following methods:

Internet—Federal eRulemaking Portal. Electronic comments may be submitted through <http://www.regulations.gov>. To locate the proposed rule, use key words such as “Labor-Management Standards” or “Labor Organization Annual Financial Reports” to search documents accepting comments. Follow the instructions for submitting comments. Please be advised that comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Delivery: Comments should be sent to: Denise M. Boucher, Director of the Office of Policy, Reports and Disclosure, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-5609, Washington, DC 20210. Because of security precautions the Department continues to experience delays in U.S. mail delivery. You should take this into consideration when preparing to meet the deadline for submitting comments.

The Office of Labor-Management Standards (OLMS) recommends that you confirm receipt of your delivered comments by contacting (202) 693-0123 (this is not a toll-free number). Individuals with hearing impairments may call (800) 877-8339 (TTY/TDD). Only those comments submitted through <http://www.regulations.gov>, hand-delivered, or mailed will be accepted. Comments will be available for public inspection at <http://www.regulations.gov> and during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT:

Denise M. Boucher, Director, Office of Policy, Reports and Disclosure, Office of Labor-Management Standards, Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-5609, Washington, DC 20210, (202) 693-0123 (this is not a toll-free number), (800) 877-8339 (TTY/TDD).

SUPPLEMENTARY INFORMATION: The Department has determined that the rule involves matters of law and policy that should be addressed by the new Administration before the rule takes effect and is first applied to labor organizations. The Department has chosen to seek public comments now, rather than permit the rule to go into

effect, due to the front end burdens associated with the rule. Without this proposal to delay the effective date, affected labor organizations likely will undertake much effort and expense in changing their recordkeeping systems to meet the changes required by the rule. If a decision is made to propose changes and such changes are ultimately effectuated, these expenses will have been incurred unnecessarily. The tasks undertaken will have to be repeated, and costs duplicated, to comply with any further revisions to the rule. Additionally, the Department itself will incur significant start up costs in revising its electronic software to make the changes required by the rule; costs that will have to be duplicated if changes are later proposed and effectuated in a final rule. Furthermore, unless the Department now proposes to delay the effective date of the rule, the Department will have to begin answering questions and providing compliance assistance about how the final rule is to be implemented, guidance that will only confuse labor organizations if new guidance about a revised rule has to be provided in the near future. For the foregoing reasons, the Department has determined to propose delay of the effective date of the final rule and, by doing so, alert affected labor organizations that it may be advisable for them to delay preparations and financial commitments associated with the changes required by the final rule until a decision is made regarding the effective date of the final rule. The Department proposes the delay of the effective date to provide an opportunity for further review and consideration of the questions of law and policy raised by it. For that reason, the Department also seeks comments generally on the rule, including comments on the merits of rescinding or retaining the rule.

Dated: January 29, 2009.

Andrew D. Auerbach,

Deputy Director, Office of Labor-Management Standards.

[FR Doc. E9-2223 Filed 1-29-09; 4:15 pm]

BILLING CODE 4510-CP-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 112

[EPA-HQ-OPA-2007-0584; FRL-8770-7]

RIN 2050-AG16

Oil Pollution Prevention; Non-Transportation Related Onshore Facilities; Spill Prevention, Control, and Countermeasure Rule—Final Amendments

AGENCY: Environmental Protection Agency.

ACTION: Final rule; Delay of effective date and request for comment.

SUMMARY: The Environmental Protection Agency (EPA) is delaying by sixty days the effective date of the final rule that amends the Spill Prevention, Control, and Countermeasure (SPCC) regulations published in the **Federal Register** on December 5, 2008. Thus, the amendments will become effective on April 4, 2009. EPA additionally is requesting public comment on the extension of the effective date and its duration, and on the regulatory amendments contained in the final rule.

DATES: This document is effective February 3, 2009. The effective date of FR Doc. E8-28159, published in the **Federal Register** on December 5, 2008 (73 FR 74236), is delayed to April 4, 2009.

Comments must be received on or before March 5, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OPA-2007-0584, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Mail:* EPA Docket, Environmental Protection Agency, Mail code: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OPA-2007-0584. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at 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 www.regulations.gov or e-mail. The www.regulations.gov Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the EPA Docket, EPA/DC EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket is (202) 566-0276.

FOR FURTHER INFORMATION CONTACT: For general information, contact the Superfund, TRI, EPCRA, RMP, and Oil Information Center at 800-424-9346 or TDD at 800-553-7672 (hearing impaired). In the Washington, DC metropolitan area, contact the Superfund, TRI, EPCRA, RMP, and Oil Information Center at 703-412-9810 or TDD 703-412-3323. For more detailed information on specific aspects of this final rule, contact either Vanessa E. Principe at 202-564-7913 (principe.vanessa@epa.gov), or Mark W.

Howard at 202-564-1964 (howard.markw@epa.gov), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC, 20460-0002, Mail Code 5104A.

SUPPLEMENTARY INFORMATION: In accordance with the January 20, 2009, White House memorandum entitled, "Regulatory Review," and the memorandum from the Office of Management and Budget entitled, "Implementation of Memorandum Concerning Regulatory Review" (M-09-08, January 21, 2009) (OMB memorandum), EPA is delaying the effective date of the final rule that amends the Spill Prevention, Control, and Countermeasure (SPCC) regulations promulgated in the **Federal Register** on December 5, 2008 (73 FR 74236) under section 311 of the Clean Water Act and seeking public comment on the extension and its duration. The effective date of the final rule would have been February 3, 2009. With the 60-day extension, the amendments will become effective on April 4, 2009. The SPCC rule amendments clarify, tailor, and streamline certain existing requirements for those facility owners or operators who are required to prepare and implement an SPCC Plan (or "Plan") to prevent the discharge of oil into or upon navigable waters of the United States or adjoining shorelines.

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an Agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the Agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for delaying the effective date of the final rule amending the SPCC regulations without prior proposal and opportunity for comment because notice and comment would be impracticable and unnecessary. Consistent with the January 21, 2009 OMB memorandum "Implementation of Memorandum Concerning Regulatory Review," the EPA Administrator has chosen this rule for additional assessment of policy and legal issues. Notice and comment is impracticable because the rule currently has an effective date of February 3, 2009, and the Agency can not adequately comply with the presidential directive without delaying the effective date of the rule. We have also determined that notice and comment is unnecessary because there are no applicable compliance dates for the

final rule until well after the April 4, 2009 effective date.

The Agency is taking this action to ensure that the rule reflects proper consideration of all relevant facts. While the Agency is requesting public comment on the entire final rule, the Agency is specifically interested in receiving comments on the optional approaches for produced water containers and the criteria for qualified oil production facilities. The preamble and regulatory text for the optional approaches for exempting or providing containment for produced water containers can be found at §§ 112.2, 112.3(d)(vi), 112.3(d)(vii), 112.5(b), 112.5(c), 112.9(c)(6), and Section V.M.7 of the December 5, 2008 document, 73 FR 74285 through 74290. The preamble and regulatory text on the criteria for the identification of oil production facilities that are qualified and eligible to prepare self-certified Plans can be found at § 112.3(g)(2)(ii) and Section V.M.6 of the December 5, 2008 document, 73 FR 74280 through 74285. The Agency requests that comments include an appropriate rationale and supporting data for Agency review and consideration. Following the comment period, EPA will take appropriate steps to ensure careful evaluation of the comments received and will consider whether further amendment of the final rule is necessary.

Finally, the Agency is also reviewing the dates by which owners or operators of facilities must prepare or amend their SPCC Plans, and implement those Plans. EPA intends to address these dates in a separate notice.

Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is, therefore, not subject to review under the Executive Order.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. This action results in no changes to the information collection requirements of the SPCC rule and will have no impact on the information collection estimate of project cost and hour burden previously submitted to OMB.

C. Regulatory Flexibility Act

Today's final rule is not subject to the Regulatory Flexibility Act (RFA), which generally requires an agency to prepare a regulatory flexibility analysis for any

rule that will have a significant economic impact on a substantial number of small entities. The RFA applies only to rules subject to notice and comment rulemaking requirements under the APA or any other statute. This rule is not subject to notice and comment requirements under the APA or any other statute because, although the rule is subject to the APA, the Agency has invoked the “good cause” exemption under 5 U.S.C. 553(b), therefore, it is not subject to the notice and comment requirement.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for state, local, or tribal governments or the private sector. This action imposes no enforceable duty on any state, local, or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 and 205 of the UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This action only delays the effective date of the December 5, 2008 rule and does not impose any additional enforceable duty.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure “meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations 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.”

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action will not impose direct compliance costs on state or local governments, and will not preempt state law. Thus, Executive Order 13132 does not apply to this action.

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

This action does not have tribal implications, as specified in Executive Order 13175 (59 FR 22951, November 9, 2000). It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

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

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because the NSPS for petroleum refineries are based on technology performance. This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in EO 12866, and because the Agency does not believe the environmental health or safety risks addressed by this action presents a disproportionate risk to children.

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

This action is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104–113; 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. NTTAA directs EPA to provide Congress, through OMB,

explanations when EPA decides not to use available and applicable VCS.

This action does not involve technical standards. Therefore, EPA did not consider the use of any VCS.

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

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefor. EPA will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 112

Environmental protection, Animal fats and vegetable oils, Hot-mix asphalt, Farms, Flammable and combustible materials, Integrity testing, Loading

racks, Materials handling and storage, Natural gas, Oil pollution, Oil and gas exploration and production, Oil spill response, Penalties, Petroleum,

Reporting and recordkeeping requirements, Secondary containment, Security, Tanks, Unloading racks, Water pollution control, Water resources.

Dated: January 29, 2009.

Lisa P. Jackson,

Administrator.

[FR Doc. E9-2335 Filed 2-2-09; 8:45 am]

BILLING CODE 6560-50-P

Proposed Rules

Federal Register

Vol. 74, No. 21

Tuesday, February 3, 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.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 337

RIN 3064-AD41

Interest Rate Restrictions on Institutions That Are Less Than Well-Capitalized

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The FDIC is proposing to amend its regulations relating to the interest rate restrictions that apply to insured depository institutions that are not well capitalized. Under the proposed rule, such insured depository institutions generally would be permitted to offer the “national rate” plus 75 basis points. The “national rate” would be defined, for deposits of similar size and maturity, as an average of rates paid by all insured depository institutions and branches for which data are available. For those cases in which the “national rate” does not represent the prevailing rate in a particular market, as indicated by available evidence, the depository institution would be permitted to offer the prevailing rate plus 75 basis points.

The purpose of this proposed rule is to clarify the interest rate restrictions for certain insured depository institutions and examiners.

DATES: Written comments must be received by the FDIC no later than April 6, 2009.

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

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Agency Web Site:* <http://www.fdic.gov/regulations/laws/federal>. Follow the instructions for submitting comments.

- *E-mail:* Comments@FDIC.gov. Include “Part 337—Interest Rate Restrictions” in the subject line of the message.

- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

- *Hand Delivery/Courier:* Comments may be hand-delivered to the guard station located at the rear of the FDIC’s 550 17th Street building (accessible from F Street) on business days between 7 a.m. and 5 p.m.

Public Inspection: Submissions must include the agency name (FDIC) and also must use the title “Part 337—Interest Rate Restrictions.” All comments generally will be posted without change (including any personal information) on the agency’s Web Site at: <http://www.fdic.gov/regulations/laws/federal/propose.html>. Paper copies of public comments may be ordered from the Public Information Center by telephone at (877) 275-3342 or (703) 562-2200.

FOR FURTHER INFORMATION CONTACT:

Louis J. Bervid, Senior Examination Specialist, Division of Supervision and Consumer Protection, (202) 898-6896 or lbervid@fdic.gov; or Christopher L. Hencke, Counsel, Legal Division, (202) 898-8839 or chencke@fdic.gov, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Section 29 of the Act

Section 29 of the Federal Deposit Insurance Act (“FDI Act”) provides that an insured depository institution that is not well capitalized may not accept deposits by or through deposit brokers. See 12 U.S.C. 1831f(a). Notwithstanding this prohibition, section 29 also provides that an adequately capitalized institution may accept brokered deposits if it obtains a waiver from the FDIC. See 12 U.S.C. 1831f(c). In contrast, an undercapitalized institution may not accept brokered deposits under any circumstances. See 12 U.S.C. 1831f(a) and (c).

The purpose of section 29 generally is to limit the acceptance or solicitation of deposits by insured depository institutions that are not well capitalized. This purpose is promoted through two means: (1) The prohibition against the acceptance of brokered deposits by depository institutions that are less than well capitalized (as described above); and (2) certain restrictions on the interest rates that may be paid by such institutions. In enacting section 29,

Congress added the interest rate restrictions to prevent such institutions from avoiding the prohibition against the acceptance of brokered deposits by soliciting deposits internally through “money desk operations.” Congress viewed the gathering of deposits by weaker institutions through either brokers or “money desk operations” as potentially an unsafe or unsound practice. See H.R. Conf. Rep. No. 101-222 at 402-403 (1989), *reprinted in* 1989 U.S.C.C.A.N. 432, 441-42.

Section 29 imposes interest rate restrictions on different categories of insured depository institutions that are less than well capitalized: (1) Adequately capitalized institutions with waivers to accept brokered deposits; (2) adequately capitalized institutions without waivers to accept brokered deposits; and (3) undercapitalized institutions. The statutory restrictions for each category are described in detail below.

Adequately capitalized institutions with waivers to accept brokered deposits. Institutions in this category may not pay a rate of interest on deposits that “significantly exceeds” the following: “(1) The rate paid on deposits of similar maturity in such institution’s normal market area for deposits accepted in the institution’s normal market area; or (2) the national rate paid on deposits of comparable maturity, as established by the [FDIC], for deposits accepted outside the institution’s normal market area.” 12 U.S.C. 1831f(e).

In this category, an institution must adhere to (or not “significantly exceed”) the prevailing rates in its own “normal market area” only with respect to deposits accepted from that market area. For other deposits, the institution is permitted to offer (but not “significantly exceed”) the “national rate” established by the FDIC. Thus, an institution in this category is not permitted to outbid local institutions for local deposits but is permitted to compete with non-local institutions for non-local deposits.

Adequately capitalized institutions without waivers to accept brokered deposits. In this category, institutions may not offer rates that “are significantly higher than the prevailing rates of interest on deposits offered by other insured depository institutions in such depository institution’s normal market area.” 12 U.S.C. 1831f(g)(3). In other words, the institution must adhere

to the prevailing rates in its own "normal market area" for all deposits (whether local or non-local). Thus, the institution will be unable to compete with non-local institutions for non-local deposits unless the rates in the institution's own "normal market area" are competitive with the non-local rates.

For institutions in this category, the statute restricts interest rates in an indirect manner. Rather than simply setting forth an interest rate restriction for adequately capitalized institutions without waivers, the statute defines the term "deposit broker" to include "any insured depository institution that is not well capitalized * * * which engages, directly or indirectly, in the solicitation of deposits by offering rates of interest which are significantly higher than the prevailing rates of interest on deposits offered by other insured depository institutions in such depository institution's normal market area." 12 U.S.C. 1831f(g)(3). In other words, the depository institution itself is a "deposit broker" if it offers rates significantly higher than the prevailing rates in its own "normal market area." Without a waiver, the institution cannot accept deposits from a "deposit broker." Thus, the institution cannot accept these deposits from itself. In this indirect manner, the statute prohibits institutions in this category from offering rates significantly higher than the prevailing rates in the institution's "normal market area."

Undercapitalized institutions. In this category, institutions may not offer rates "that are significantly higher than the prevailing rates of interest on insured deposits (1) in such institution's normal market areas; or (2) in the market area in which such deposits would otherwise be accepted." 12 U.S.C. 1831f(h). Thus, for deposits in its own "normal market area," an undercapitalized institution must offer rates that are not "significantly higher" than the local rates. For non-local deposits, the institution must offer rates that are not "significantly higher" than either of the following: (1) The institution's own local rates; or (2) the applicable non-local rates. In other words, the institution must adhere to the prevailing rates in its own "normal market area" for all deposits (whether local or non-local) and also must adhere to the prevailing rates in the non-local area for any non-local deposits. Thus, the institution will be unable to outbid non-local institutions for non-local deposits even if the non-local rates are lower than the rates in the institution's own "normal market area."

As described above, section 29 of the FDI Act imposes interest rate

restrictions based on a depository institution's capital category (and whether the depository institution has obtained a waiver to accept brokered deposits). Also, section 29 authorizes the FDIC to "impose, by regulation or order, such additional restrictions on the acceptance of brokered deposits by any institution as the [FDIC] may determine to be appropriate." 12 U.S.C. 1831f(f). This broad grant of authority does not refer to capital categories. Thus, the FDIC could adopt additional restrictions on the acceptance of brokered deposits without regard to capital categories. To date, the FDIC has not adopted any such additional restrictions, but the FDIC is interested in obtaining comments on whether the adoption of such restrictions would be appropriate.

II. Section 337.6 of the FDIC's Regulations

The FDIC has implemented section 29 of the FDI Act through section 337.6 of the FDIC's regulations. See 12 CFR 337.6. Section 337.6 adds several significant definitions to the statutory rules, including the following: (1) The "national rate" is defined; (2) the terms "significantly exceeds" and "significantly higher" are defined; and (3) the term "market area" is defined. Each of these definitions, and the reasoning behind the definitions, are discussed in greater detail below.

The "National Rate." In section 337.6, the "national rate" is defined as follows: "(1) 120 percent of the current yield on similar maturity U.S. Treasury obligations; or (2) In the case of any deposit at least half of which is uninsured, 130 percent of such applicable yield." 12 CFR 337.6(b)(2)(ii)(B). In defining the "national rate" in this manner, the FDIC relied upon the fact that such a definition is "objective and simple to administer." 57 FR 23933, 23938 (June 5, 1992). By using percentages (120 percent or 130 percent of the yield on U.S. Treasury obligations) instead of a fixed number of basis points, the FDIC hoped to "allow for greater flexibility should the spread to Treasury securities widen in a rising interest rate environment." *Id.* In deciding *not* to rely on published deposit rates, the FDIC offered the following explanation: "The FDIC believes this approach would not be timely because data on market rates must be available on a substantially current basis to achieve the intended purpose of this provision and permit institutions to avoid violations. At this time, the FDIC has determined not to tie the national rate to a private publication. The FDIC has

not been able to establish that such published rates sufficiently cover the markets for deposits of different sizes and maturities." *Id.* at 23939.

"Significantly Exceeds." Through section 337.6, the FDIC has provided that a rate of interest "significantly exceeds" another rate, or is "significantly higher" than another rate, if the first rate exceeds the second rate by more than 75 basis points. See 12 CFR 337.6(b)(2)(ii), (b)(3)(ii) and (b)(4). In adopting this standard, the FDIC offered the following explanation: "Based upon the FDIC's experience with the brokered deposit prohibitions to date, it is believed that this number will allow insured depository institutions subject to the interest rate ceilings * * * to compete for funds within markets, and yet constrain their ability to attract funds by paying rates significantly higher than prevailing rates." 57 FR at 23939.

"Market Area." Section 337.6 defines "market area" as follows: "A market area is any readily defined geographical area in which the rates offered by any one insured depository institution soliciting deposits in that area may affect the rates offered by other insured depository institutions operating in the same area." 12 CFR 337.6(b)(4). In adopting this definition, the FDIC offered the following explanation: "Under the final rule, the market area will be determined pragmatically, on a case-by-case basis, based on the evident or likely impact of a depository institution's solicitation of deposits in a particular area, taking into account the means and media used and volume and sources of deposits resulting from such solicitation." 57 FR at 23939.

These rules and definitions in section 337.6 have been difficult for insured depository institutions and examiners to apply. One issue is that section 337.6 defines "market area" but does not define "normal market area."¹ The latter term could be defined with reference to a depository institution's location (such as the location of the main office or the location of branches); in the alternative, the term might be defined with reference to a depository institution's marketing practices. Under these circumstances, institutions and examiners have struggled to determine "normal market areas."

The problem with defining "normal market area" can be illustrated by an example. Two insured depository

¹ Prior to 1992, the term "normal market area" was defined in a footnote in section 337.6. Under this definition, a depository institution's "normal market area" depended upon the institution's advertising practices in soliciting deposits. See 12 CFR 337.6(a)(1)(ii) (1992) (footnote 11).

institutions might maintain offices in the same area but have vastly different deposit gathering strategies. The first institution might concentrate on obtaining deposits from the local area; in contrast, the second institution might focus on a much wider area and each would tailor its rates to the deposits being solicited.

This uncertainty has made it difficult for banks and regulators to administer the regulation. Also, this uncertainty appears to have resulted in the payment of high rates by less than well capitalized banks. For example, based on the most recent information currently available, the average 1-year certificate of deposit rate paid by less than well capitalized banks was 2.87 while the average 1-year certificate of deposit rate paid by all insured banks and branches over the same period for which the FDIC had data was 2.18 percent. In paying these rates, the banks have argued that such rates prevail in their "normal market areas."

Another issue is that the definition of the "national rate" is outdated. As discussed above, the "national rate" is defined as "120 percent of the current yield on similar U.S. Treasury obligations" (or 130 percent in the case of a deposit "at least half of which is uninsured"). 12 CFR 337.6(b)(2)(ii)(B). In the past, this definition functioned well because rates on Treasury obligations tracked closely with rates on deposits. At present, however, the rates on Treasury obligations are low compared to deposit rates. Consequently, the "national rate" as defined in the FDIC's regulations is artificially low. For example, at January 4, 2009, the "national rate" as computed under section 337.6 for 1-year certificates of deposits was 0.48 percent while the average 1-year certificate of deposit rate paid by all insured banks and branches for which the FDIC had data was 1.95 percent. By setting a low rate, the FDIC's regulations require some insured depository institutions to offer unreasonably low rates on some deposits, thereby restricting access even to market-rate funding.

In response to these issues, the FDIC has decided to seek public comments on a proposed rule. The purpose of the proposed rule would be to provide insured depository institutions and examiners with a clear method for determining the highest permissible interest rates for those institutions that become less than well capitalized. Below, the operation of the proposed rule is explained in detail.

III. The Proposed Rule

The proposed rule would amend three paragraphs of § 337.6. Each of these paragraphs is discussed in turn below.

Paragraph (a)(5)(iii). At present, this paragraph provides that the term "deposit broker" includes "any insured depository institution that is not well capitalized, and any employee of any such insured depository institution, which engages, directly or indirectly, in the solicitation of deposits by offering rates of interest (with respect to such deposits) which are significantly higher than the prevailing rates of interest on deposits offered by other insured depository institutions in such depository institution's normal market area." 12 CFR 337.6(a)(5)(iii). This provision in the regulations is based upon corresponding language in the statute itself. See 12 U.S.C. 1831f(g)(3). As previously discussed, the effect of this provision is to prohibit adequately capitalized insured depository institutions from offering rates of interest significantly higher than the prevailing rates in the institution's normal market area.

Through the proposed rule, the FDIC would add the following sentence: "For purposes of this paragraph, the prevailing rates of interest in such depository institution's normal market area shall be deemed to be the national rate as defined in paragraph (b)(2)(ii)(B) unless the FDIC determines, based on available evidence, that the prevailing rates differ from the national rate." This amendment would serve the purpose of providing depository institutions and examiners with a clear method for determining the highest permissible interest rates. For example, the boundaries of a particular depository institution's normal market area might be unclear. Further, insufficient evidence might be available as to the prevailing rates.

Paragraph (b)(2)(ii)(B). At present, this paragraph defines the national rate as follows: "(1) 120 percent of the current yield on similar maturity U.S. Treasury obligations; or (2) In the case of any deposit at least half of which is uninsured, 130 percent of such applicable yield." For the reasons previously explained, the FDIC believes that this definition is outdated. Through the proposed rule, the national rate would be redefined as "a simple average of rates paid by all insured depository institutions and branches for which data are available."

For the convenience of insured depository institutions and examiners, the FDIC would monitor the rates paid by insured depository institutions and

use this data to calculate the "national rate." Again, the national rate would be the average rate on deposits of similar size and maturity.

Paragraph (b)(4). This paragraph defines the effective yields or prevailing rates in relevant markets. At present, this paragraph provides as follows: "For purposes of the [interest rate restrictions in § 337.6], the effective yields in the relevant markets are the average of effective yields offered by other insured depository institutions in the market area in which deposits are being solicited." In addition, this paragraph defines "market area" as follows: "A market area is any readily defined geographical area in which the rates offered by any one insured depository institution soliciting deposits in that area may affect the rates offered by other insured depository institutions operating in the same area."

Though "market area" is defined, § 337.6(b)(4) does not define "normal market area." As previously noted, depository institutions and examiners have struggled in determining both what is a "normal market area" and what are the effective yields or prevailing rates in that area. Through the proposed rule, the FDIC would address this problem by replacing the language quoted above (defining "effective yield") with the following: "For purposes of [the interest rate restrictions in section 337.6], a presumption shall exist that the effective yield in the relevant market is the national rate as defined in paragraph (b)(2)(ii)(B) unless the FDIC determines, based on available evidence, that the effective yield differs from the national rate."

In most cases, under the proposed rule, determining a permissible rate would involve a simple two-step process. First, the insured depository institution would determine the national rate simply by obtaining information from the FDIC. Second, the institution or examiner would add 75 basis points. In the absence of evidence that the applicable prevailing rate differs from the national rate, this two-step procedure would yield a permissible rate.

The FDIC proposes to post the national rate for deposits of a particular size and maturity and also by posting the "rate cap" for such deposits. The "rate cap" would be the national rate plus 75 basis points. Using data available to the FDIC as of January 4, 2009, under this proposed rule, the FDIC would have published the following schedule of "national rates" and "rate caps." This table would be published on the FDIC Web site and updated weekly.

Deposit products	National rates	Rate cap
Non-maturity Products	0.60	1.35
1 month CD	0.64	1.39
3 month CD	1.22	1.97
6 month CD	1.55	2.30
12 month CD	1.95	2.70
24 month CD	2.15	2.90
36 month CD	2.37	3.12
60 month CD	2.73	3.48

In those cases in which evidence exists that the average rate in a relevant market exceeds the national rate, the bank would be permitted to offer the higher average rate plus 75 basis points. In most cases, however, the FDIC expects that the highest permissible rate would be the national rate plus 75 basis points.

Through the proposed rule, the FDIC would not change its interpretation that an interest rate “significantly exceeds” a second rate, or is “significantly higher” than a second rate, if the first rate exceeds the second rate by more than 75 basis points.

In making this proposal, the FDIC has relied upon the fact that competition for deposits among insured depository institutions has grown increasingly national in scope. This competition is largely the product of improvements in technology as well as the growth of a number of insured depository institutions into nationwide businesses. Today, a consumer can compare interest rates around the country simply by checking certain Web sites. In light of this development, the FDIC has concluded that the national rate (based on national averages) is a reasonable estimation of the prevailing rate in any market absent persuasive evidence to the contrary.

The proposed rule would permit insured depository institutions that are not well capitalized to determine the highest permissible interest rates on deposits more simply. Rather than gathering information on the rates offered by all depository institutions in a particular market area (after determining the boundaries of the relevant market area) to determine the relevant prevailing rate for purposes of comparison, the insured depository institution could simply compare its rate to the FDIC’s national rate. Further, if the institution can demonstrate to the FDIC that the actual prevailing rate in the relevant market exceeds the “national rate,” the institution would be permitted to offer the higher rate. By amending § 337.6 in this manner, the FDIC could simplify the interest rate restrictions while providing insured depository institutions with sufficient

flexibility to respond to the market environment.

Request for Comments

The FDIC seeks comments on all aspects of the proposed rule. In particular, the FDIC requests comments on the following questions:

1. Should the FDIC amend its definition of a “market area”? Should the FDIC add a definition of “normal market area”? If so, what should be the definition of an insured depository institution’s “normal market area”?

2. Should the FDIC create a presumption that the prevailing rate in any “market area” or “normal market area” is the national rate? If not, how should the FDIC determine the prevailing rate in a particular “market area” or “normal market area”?

3. Should the FDIC, in addition to publishing a “national rate” that can be used as a proxy for the “normal market area” rate, also provide a schedule that lists prevailing rates for maturities by state for those institutions soliciting deposits only in those states?

4. Should the FDIC redefine the “national rate”? If so, should the FDIC define the “national rate” as “a simple average of rates paid by all insured depository institutions and branches for which data are available”? If not, how should the FDIC define the “national rate”?

5. Should the definition of the “national rate” be made more flexible? For example, in the event of changes in market conditions, should the FDIC possess the discretion to add or remove a multiplier to the “national rate” (so that the “national rate” might be the “average of rates times 1.20” or some other multiplier)?

6. Should the FDIC set forth a specific procedure for determining average or prevailing rates? For example, should the FDIC specify that data may be obtained from one or more private companies as to the rates paid by insured depository institutions?

7. Should the FDIC establish a procedure for disseminating information about average rates or rate caps? For example, should the FDIC post such information on its Web site for use by insured depository institutions and examiners?

8. Should the FDIC establish a procedure through which an insured depository institution could present evidence about the prevailing or average rates in a particular market?

9. Under the FDIC’s regulations, a rate of interest “significantly exceeds” another rate, or is “significantly higher” than another rate, if the first rate exceeds the second rate by more than 75

basis points. Should the FDIC change this standard?

10. Should the FDIC adopt restrictions in addition to the current restrictions based on a depository institution’s capital category?

Community Development and Regulatory Improvement Act

The proposed rule does not impose any new reporting or disclosure requirements on insured depository institutions under the Riegle Community Development and Regulatory Improvement Act.

Paperwork Reduction Act

The proposed rule does not involve any new collections of information under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Consequently, no information collection has been submitted to the Office of Management and Budget for review.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the FDIC certifies that the proposed rule will not have a significant impact on a substantial number of small entities. This conclusion is based upon the fact that the proposed rule would merely clarify the interest rate restrictions set forth in the Federal Deposit Insurance Act. The proposed rule would not impose any new restrictions. Indeed, under the proposed rule, the burden of complying with the interest rate restrictions would be eased because insured depository institutions that are not well capitalized (including any small entities) could rely on the “national rate” determined by the FDIC. In those cases in which the insured depository institution believes that the rates in its “normal market area” exceed the “national rate,” the proposed rule would permit the institution to offer evidence of the “normal market area” rates just as the current rules permit institutions to offer evidence of “normal market area” rates.

Impact on Families

The FDIC has determined that the proposed rule would not affect family well-being within the meaning 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).

Plain Language

The FDIC has sought to present the proposed rule in a simple and straightforward manner. The FDIC

invites comments on whether the rule could be written so that it is easier to understand.

List of Subjects in 12 CFR Part 337

Banks, Banking, Reporting and recordkeeping requirements, Savings associations, Securities.

For the reasons stated above, the Board of Directors of the Federal Deposit Insurance Corporation proposes to amend part 337 of title 12 of the Code of Federal Regulations as follows:

1. The authority citation for part 337 continues to read as follows:

Authority: 12 U.S.C. 375a(4), 375b, 1816, 1818(a), 1818(b), 1819, 1820(d)(10), 1821(f), 1828(j)(2), 1831.

2. In § 337.6, revise paragraphs (a)(5)(iii), (b)(2)(ii)(B), and (b)(4) to read as follows:

§ 337.6 Brokered deposits.

(a) * * *

(5) * * *

(iii) Notwithstanding paragraph (a)(5)(ii) of this section, the term *deposit broker* includes any insured depository institution that is not well capitalized, and any employee of any such insured depository institution, which engages, directly or indirectly, in the solicitation of deposits by offering rates of interest (with respect to such deposits) which are significantly higher than the prevailing rates of interest on deposits offered by other insured depository institutions in such depository institution's normal market area. For purposes of this paragraph, the prevailing rates of interest in such depository institution's normal market area shall be deemed to be the national rate as defined in paragraph (b)(2)(ii)(B) of this section unless the FDIC determines, based on available evidence, that the prevailing rates differ from the national rate.

* * * * *

(b) * * *

(2) * * * (ii) * * *

(B) The national rate paid on deposits of comparable size and maturity for deposits accepted outside the institution's normal market area. For purposes of this paragraph (b)(2)(ii)(B), the national rate, which would be calculated and published by the FDIC, shall be a simple average of rates paid by all insured depository institutions and branches for which data are available.

* * * * *

(4) For purposes of the restrictions contained in paragraphs (b)(2)(ii)(A) and (b)(3)(ii) of this section, a presumption shall exist that the effective yield in the relevant market is the national rate as

defined in paragraph (b)(2)(ii)(B) of this section unless the FDIC determines, based on available evidence, that the effective yield differs from the national rate. An effective yield on a deposit with an odd maturity violates paragraphs (b)(2)(ii)(A) and (b)(3)(ii) of this section if it is more than 75 basis points higher than the yield calculated by interpolating between the yields offered by other insured depository institutions on deposits of the next longer and shorter maturities offered in the market. A market area is any readily defined geographical area in which the rates offered by any one insured depository institution soliciting deposits in that area may affect the rates offered by other insured depository institutions operating in the same area.

* * * * *

Dated at Washington, DC, this 27th day of January, 2009.

Authorized to be published in the **Federal Register** by Order of the Board of Directors of the Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E9-2112 Filed 2-2-09; 8:45 am]

BILLING CODE 6714-01-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS-R9-IA-2008-0123; 96100-1671-0000-B6]

RIN 1018-AI83

Endangered and Threatened Wildlife and Plants; Petition To Reclassify the Wood Bison From Endangered to Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce our 90-day finding on a petition to reclassify the wood bison (*Bison bison athabasca*) from endangered to threatened throughout its range in the List of Endangered and Threatened Wildlife established under the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*). We find that the petition presents substantial scientific and commercial information indicating that the petitioned action of reclassifying the wood bison from endangered to threatened status under the Act may be warranted. Therefore, we are initiating a

status review of the wood bison to determine if reclassification, as petitioned, is warranted under the Act. To ensure that the status review is comprehensive, we are requesting submission of any new information on the wood bison since its original listing as endangered throughout its entire range under the predecessor of the Act on June 2, 1970 (35 FR 8491). At the conclusion of our status review, we will issue a 12-month finding on the petition, as provided in section 4(b)(3)(B) of the Act.

DATES: The finding announced in this document was made on January 14, 2009. To be considered in the 12-month finding on this petition, we will accept comments and information from all interested parties until April 6, 2009.

ADDRESSES: You may submit information, materials, and comments by one of the following methods:

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

- **U.S. mail or hand-delivery:** Public Comments Processing, Attn: FWS-R9-IA-2008-0123; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive; Suite 222; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: Rosemarie Gnam, Ph.D., Chief, Division of Scientific Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 110, Arlington, VA 22203; telephone 703-358-1708; facsimile 703-358-2276; electronic mail ScientificAuthority@fws.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339.

SUPPLEMENTARY INFORMATION:

Public Information Solicited

We intend that any final action resulting from this status review will be as accurate and as effective as possible based on the best available scientific and commercial information. Therefore, we solicit information, comments, or suggestions on the wood bison from the public, concerned government agencies, the scientific community, or any other interested party. We are opening a 60-day public comment period to allow all interested parties an opportunity to provide information on the status of the

wood bison throughout its range, including:

(1) Information on taxonomy, distribution, habitat selection and use, food habits, population density and trends, habitat trends, disease, and effects of management on wood bison;

(2) Information on captive herds, including efficacy of breeding and reintroduction programs, origin of parental stock, stock supplementation for genetic purposes, growth rates, birth and mortality rates in captivity; location of captive herds in comparison to wild populations, effects of captive breeding on the species' natural habitats and wild populations, and any other factors from captive breeding that might affect wild populations or natural habitat;

(3) Information on the adequacy of existing regulatory mechanisms; trends in domestic and international trade of live specimens, sport-hunted trophies, or other parts and products; poaching of wild wood bison; illegal trade and enforcement efforts and solutions; and oversight of reintroduction or introduction programs;

(4) Information on the effects of other potential threat factors, including contaminants, changes of the distribution and abundance of wild populations, disease episodes within wild and captive populations, large mortality events, climate change, or negative effects resulting from the presence of invasive species; and

(5) Information on management programs for wood bison conservation in the wild, including private, tribal, or governmental conservation programs that benefit wood bison.

We will base our finding on a review of the best scientific and commercial information available, including all information received during the public comment period.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in the **ADDRESSES** section. We will not accept comments you send by e-mail or fax.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that we will post your entire comment—including your personal identifying information—on <http://www.regulations.gov>. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing this 90-day finding, will be available for public inspection on <http://www.regulations.gov>, or by

appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Division of Scientific Authority (see **FOR FURTHER INFORMATION CONTACT**).

Background

We received a petition from the co-chairs of the National Wood Bison Recovery Team (NWBRT) based at the University of Calgary, Canada, dated November 26, 2007, requesting that we reclassify the wood bison (*Bison bison athabascae*) from endangered to threatened. The petition contained information about recovery efforts in Canada and referred to information provided to the United States Division of Scientific Authority by the NWBRT since 2004 regarding the natural history and biology of the wood bison, including the species' current status and distribution.

All wild, disease-free wood bison, 3,382 specimens in 2004, are found in northwestern Canada (Reynolds *et al.* 2004, p. 32). They are distributed among seven managed populations in the Northwest Territories, the Yukon Territory, British Columbia, Alberta, and Manitoba. There are also 15 captive-breeding herds (5 public herds and 10 private herds), with all of the public herds located in northwestern Canada.

The wood bison differs morphologically from the more common plains bison (*Bison bison bison*). The wood bison is larger and heavier within similar age and sex classes, darker in color with a more squarish hump than the rounder hump of the plains bison. There is less hair on top of the head of the wood bison, around the horns and in the beard, which makes the horns appear longer and the head appear smaller than those of the plains bison. The long hair on the front legs of plains bison is short or absent in wood bison, and the cape on the hump, shoulders, and neck is less distinct (Reynolds *et al.* 2003, p. 1013).

In contrast to the plains bison, wood bison herds are smaller. During rut, wood bison herds disperse into even smaller groups with some bulls temporarily becoming solitary (Reynolds *et al.* 2003, p. 1021). Whereas plains bison bulls establish dominance hierarchies for breeding, wood bison bulls establish harems (Reynolds *et al.* 2003, p. 1021). Wood bison home range size varies with age, sex, and availability of forage (Reynolds *et al.* 2003, pp. 1024–25). The breeding season is from July to October. Bulls between the ages of 6 and 9 years do most of the breeding (Reynolds *et al.* 2003, p. 1025). Peak breeding age for cows is between 5 and 14 years of age. Wood bison forage in open meadows,

and rest and ruminate in aspen and coniferous forests (Government of Canada 1997, p. 2; Reynolds *et al.* 2003, p. 1037).

History of the Endangered Species Act Listing

The wood bison was listed under the U.S. Endangered Species Conservation Act of 1969; the listing of which went into effect on June 2, 1970, with the publication of our final rule, Conservation of endangered species and other fish or wildlife (35 FR 8491). At that time through the present, the only wild wood bison herds were found in the boreal wilderness of northwestern Canada (Government of Canada 1997, p. 2). While never numerous, the subspecies, which numbered approximately 200,000 animals in Canada in 1800, was almost exterminated by the late 1800s due to overhunting for food and the fur trade. About 250 specimens survived in the early 1900s and were protected by the Government of Canada in Wood Buffalo National Park. The growing herd was jeopardized by the introduction of plains bison, however, with which the remaining wood bison hybridized. The plains bison also introduced tuberculosis and brucellosis in wood bison herds. A total of 200 disease-free bison with wood bison morphological characteristics were discovered in 1959 in a remote area of Wood Bison National Park. Between 1963 and 1965, just prior to the Endangered Species Conservation Act listing, 42 of these specimens were introduced into the Mackenzie Bison Sanctuary, near Fort Providence, in the Northwest Territories, and into Elk Island National Park in Central Alberta (Government of Canada 1997, p. 2). These specimens became the founder stock for the 4,336 disease-free specimens of wood bison (Reynolds *et al.* 2004, p. 32).

Because the wood bison was summarily listed under the 1969 Endangered Species Conservation Act, along with many other species, there was no separate **Federal Register** final rule for its listing. On June 2, 1970, the wood bison first appeared on the list of foreign species (Appendix A) in our final rule, Conservation of endangered species and other fish or wildlife (35 FR 8491). According to this rule, the taxa included in Appendix A of that document were considered as endangered throughout their range. It was likely that the total subspecies population of about 200 specimens contributed to the listing decision. Appendix A indicated Canada as the sole range country (in the "Where Found" column), with the explanation

that the range information “is a general guide to the native countries or regions where the named animals are found. It is not intended to be definitive.”

In 1979, the listing status of wood bison within the United States was reviewed due to a potential failure to comply with a procedural requirement of the 1969 Act (i.e., consulting with the governor of any state in which the species was found) (44 FR 43705; July 25, 1979). On July 25, 1980, the Service published a proposed rule discussing the earlier procedural error, but did not propose changes to the listing status of wood bison as we had determined that no pure bred individuals of the subspecies were known to occur in the United States (45 FR 49844).

Other Wood Bison Listings

The wood bison was placed in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) on July 1, 1975, when the treaty went into effect (42 FR 10462; February 22, 1979). On September 28, 1997, the wood bison was downlisted to Appendix II based on a proposal from Canada that described progress in implementation of the Canadian recovery plan (Government of Canada, 1997; 62 FR 44627; August 22, 1997). The United States voted in support of the downlisting. Listing in CITES Appendix II allows for regulated commercial trade as long as certain findings are made, whereas a listing in Appendix I generally prohibits commercial trade. The wood bison is also listed as a threatened species under Canada’s Species at Risk Act (SARA), which went into effect on June 1, 2004. The 2006 IUCN Red List of Threatened Species (<http://www.iucnredlist.org/>) classifies the American bison (Bison

bison) as “lower risk–conservation dependent.” Subspecies, such as the plains bison and wood bison, are not evaluated separately from the species on the IUCN list.

The NWBRT petition is the second petition that we have received regarding the wood bison. On May 14, 1998, the Service received a petition from a private individual requesting that we remove the wood bison from the List of Endangered and Threatened Wildlife, primarily because it had just been downlisted under CITES. In a 90-day finding published on November 25, 1998 (63 FR 65164), we found that the petitioner did not supply substantial information to indicate that the delisting was warranted.

The NWBRT, with this petition, requests reclassification of the wood bison from endangered to threatened because—according to their petition—populations are healthy, habitat remains plentiful, and recovery and management plans are being implemented. With this action, we find that the NWBRT petition presents substantial scientific evidence and commercial information indicating that reclassification from an endangered species to a threatened species may be warranted.

Finding

On the basis of the information provided in the petition or contained in Service files, we have determined that the petition presents substantial scientific and commercial information indicating that reclassifying the wood bison from endangered to threatened may be warranted. Therefore, we are initiating a status review to determine if reclassification of the subspecies is warranted. To ensure that the status review is comprehensive, the Service is

soliciting scientific and commercial information regarding this subspecies.

References Cited

- Government of Canada. 1997. Prop. 10.35. Proposal for the transfer of wood bison (*Bison bison athabascae*) from Appendix I to Appendix II of the Convention on International Trade in Endangered Species. Tenth Meeting of the Conference of the Parties held in Harare, Zimbabwe, 9–20 June, 1997. 2 pp.
- Reynolds, H.W., C.C. Gates, and R.D. Glaholt. 2003. Bison (*Bison bison*). In: G.A. Feldhamer, B.C. Thompson, and J.A. Chapman (eds.), Wild Mammals of North America. Biology, Management, and Conservation. 2nd Edition. The Johns Hopkins University Press, Baltimore. Pp. 1009–1060.
- Reynolds, H., C. Gates, J. Nishi, T. Jung, H. Schwantje, and B. Stephenson. 2004. Draft background on wood bison recovery efforts and legal status in Canada. Submitted to U.S. Fish and Wildlife Service, August 2004. 32pp.

Author

The primary author of this document is Jeffrey P. Jorgenson, Ph.D., Division of Scientific Authority, U.S. Fish and Wildlife Service (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: January 14, 2009.

Kenneth Stansell,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. E9–2084 Filed 2–2–09; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 74, No. 21

Tuesday, February 3, 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

Animal and Plant Health Inspection Service

[Docket No. APHIS–2008–0119]

Implementation of Revised Lacey Act Provisions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Food, Conservation, and Energy Act of 2008 amended the Lacey Act to provide, among other things, that importers submit a declaration at the time of importation for certain plants and plant products. The declaration requirements of the Lacey Act became effective on December 15, 2008; however, enforcement of the declaration requirement will be phased in and will begin on April 1, 2009 (unless the implementation date must be delayed slightly for technical reasons as described below). The purpose of this notice is to inform the public of the Federal Government's revised plan to phase in enforcement of the declaration requirement and other implementation plans.

DATES: We will consider all comments that we receive on or before April 6, 2009.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0119> to submit or view comments and to view supporting and related materials available electronically.

- *Postal Mail/Commercial Delivery:* Please send two copies of your comment to Docket No. APHIS–2008–0119, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your

comment refers to Docket No. APHIS–2008–0119.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

FOR FURTHER INFORMATION CONTACT: Mr. Alex Belano, Assistant Branch Chief, Commodity Import Analysis and Operations, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 734–8758.

SUPPLEMENTARY INFORMATION:

Background

The Lacey Act (16 U.S.C. 3371 *et seq.*), first enacted in 1900 and significantly amended in 1981, is the United States' oldest wildlife protection statute. The Act combats trafficking in "illegal" wildlife, fish, or plants. The Food, Conservation, and Energy Act of 2008, effective May 22, 2008, amended the Lacey Act by expanding its protection to a broader range of plants and plant products (Section 8204, Prevention of Illegal Logging Practices). As amended, the Lacey Act now makes it unlawful to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any plant, with some limited exceptions, taken in violation of the laws of a U.S. State or any foreign law that protects plants. The Lacey Act also now makes it unlawful to make or submit any false record, account, or label for, or any false identification of, any plant. In addition, Section 3 of the Lacey Act, as amended (16 U.S.C. 3372), makes it unlawful to import certain plants and plant products without an import declaration. The declaration must contain, among other things, the scientific name of the plant, value of the importation, quantity of the plant, and name of the country from where the plant was harvested. For paper and paperboard products containing recycled content, the declaration also must include the

average percent of recycled content without regard for species or country of harvest.

Comment Analysis

On October 8, 2008, we published a notice in the **Federal Register** (73 FR 58925–58927, Docket No. APHIS–2008–0119) announcing our plans to begin phased-in enforcement of the declaration requirement on April 1, 2009, and provided dates and products covered for the first three phases of enforcement. We solicited comment on the proposed phase-in plan for 60 days ending on December 8, 2008, and received 124 comments by that date. The comments covered a range of topics, including the scope of the declaration requirement, the specific products covered in each phase, definitions of terms, length of phases, effects on trade/industry, and enforcement issues. While we will not provide specific responses to comments in this notice, we have revised the phase-in schedule based on the comments we received. Comments related to other aspects of our implementation plan for the declaration requirement are still being analyzed and those comments will be taken into account as we continue to implement the provisions related to the declaration requirement of the Lacey Act.

Revised Phase-in Schedule

After review of the comments received and further internal consideration, we have revised the phase-in schedule, which covers the period from December 15, 2008, to September 30, 2010. We have extended the length of each phase from 3 months to 6 months and provided an affirmative list of products that fall within each phase of enforcement of the declaration requirement. We revised the schedule by phasing in products largely based on their degree of processing and complexity of their composition. For example, phase II contains products that are minimally processed and/or of less complicated composition (e.g., wood in the rough, sheets for veneering). Phase III contains products that are more processed and of more complex composition (e.g., wood pulp and particle board). Finally, phase IV includes more highly processed products composed of materials from phases II and III (e.g., paper and

furniture). We continue to consider the applicability of the declaration requirement to products not included in the current phase-in schedule and we invite public comment on how the declaration requirement should be enforced as to these products.

The proposed phased enforcement schedule through September 30, 2010, is

described in the table below. It is important to note that while enforcement of the declaration requirement will be phased in and will begin no earlier than April 1, 2009, the other Lacey Act amendments are already effective, and actions to enforce provisions of the Act other than the

declaration requirement may be taken at any time. We invite public comment particularly on the products covered under phases III and IV of the revised plan, as well as on whether any additional Harmonized Tariff Schedule (HTS) chapters should be included in the current phase-in schedule.

PHASE-IN SCHEDULE OF ENFORCEMENT OF THE DECLARATION REQUIREMENT FOR GOODS OF, OR CONTAINING, PLANTS OR PLANT PRODUCTS *

I Present–March 2009	II April 1, 2009–September 30, 2009	III October 1, 2009–March 31, 2010	IV April 1, 2010–September 30, 2010
PPQ Plant Import Declaration Form will be available on Web site, and accepted after December 15, 2008. Domestic and International Outreach.	HTS Chapters: Ch. 44 Headings (wood & articles of wood). 4401—(Fuel wood) 4403—(Wood in the rough) .. 4404—(Hoopwood; poles, piles, stakes). 4406—(Railway or tramway sleepers). 4407—(Wood sawn or chipped lengthwise). 4408—(Sheets for veneering) 4409—(Wood continuously shaped). 4417—(Tools, tool handles, broom handles). 4418—(Builders' joinery and carpentry of wood).	HTS Chapters: Ch. 44 Headings (wood & articles of wood). 4402—(Wood charcoal) 4405—(Wood wool [excelsior]). 4410—(Particle board) 4411—(Fiberboard of wood) 4412—(Plywood, veneered panels). 4413—(Densified wood) 4414—(Wooden frames) 4415—(Packing cases, boxes, crates, drums). 4416—(Casks, barrels, vats, tubs). 4419—(Tableware & kitchenware, of wood). 4420—(Wood marquetry; caskets; statuettes). Ch. 47 Headings (wood pulp) 4701—(Mechanical wood pulp). 4702—(Chemical wood pulp, dissolving). 4703—(Chemical wood pulp, sulfate). 4704—(Chemical wood pulp, sulfite). 4705—(Combination mechanical and chemical). PLUS PHASE II	HTS Chapters: Ch. 44 Headings (wood & articles of wood). 4421—(Articles of wood, nesoi). Ch. 48 Headings (paper & articles of). 4801—(Newsprint). 4802—(Uncoated writing paper). 4803—(Toilet or facial tissue stock). 4804—(Uncoated kraft paper). 4805—(Other uncoated paper and board). 4806—(Vegetable parchment, etc.). 4807—(Composite paper and board). 4808—(Corrugated paper and board). 4809—(Carbon paper). 4810—(Coated paper and board). 4811—(paper coated, etc., other than 4803, 4809, or 4810). Ch. 94 Headings (furniture, etc.). 940169 (seats with wooden frames). 940330 (wooden office furniture). 940340 (wooden kitchen furniture). 940350 (wooden bedroom furniture). 940360 (other wooden furniture). 94039070 (wooden furniture parts). PLUS PHASES II & III.

* Declaration requirements are effective as of December 15, 2008. All declarations submitted must be accurate; false statements may be referred for enforcement. Failure to submit a declaration will not be prosecuted, and customs clearance will not be denied for lack of a declaration until after the phase-in date above.

With respect to the declaration requirement, the Federal enforcement agencies do not intend to refer for enforcement entries of products in HTS

chapters not listed in the above phase-in schedule, during the respective timeframes, unless APHIS publishes another notice in the **Federal Register**

announcing an amended implementation plan. Any such changes/additions would apply only to phases III or IV. There will be no further

changes to phase II. Should there be additions to phases III or IV, we intend to provide at least 6 months' notice to persons and industries affected by those changes to facilitate compliance with the new requirements. Changes will be announced in the **Federal Register**.

The Federal Government will conduct studies in order to inform implementation of the amended Lacey Act, including with respect to products under HTS headings not listed in the current phase-in schedule. In addition, consistent with the requirements of the statute, we will review our experience with implementation and make decisions, including promulgating regulations, to guide any further phase in of the declaration requirement.

Applicability of the Declaration Requirement

At present, we will be enforcing the declaration requirement only as to formal consumption entries (*i.e.*, most commercial shipments). Also at this time, we do not intend to enforce the declaration requirement for informal entries (*i.e.*, most personal shipments), personal importations, or mail (unless subject to formal entry), transportation and exportation entries, in-transit movements, carnet importations (*i.e.*, merchandise or equipment that will be re-exported within a year), and foreign trade zone and warehouse entries; however, we welcome public comment on enforcement of the declaration requirement with regard to those types of entries. Further, we will only enforce a declaration for the product being imported and not for sundries that ordinarily accompany the product (*e.g.*, tags, labels, manuals, and warranty cards).

Declaration Form

A printable declaration form is currently available for voluntary submission on the Internet at http://www.aphis.usda.gov/plant_health/lacey_act/index.shtml or from the person listed under **FOR FURTHER INFORMATION CONTACT**. You may submit completed declaration forms by mail to: The Lacey Act, c/o U.S. Dept of Agriculture, Box 10, 4700 River Road, Riverdale, MD 20737.

As indicated previously, we intend to collect the data required by the amended Lacey Act electronically and anticipate the majority of importers will not need to submit a paper declaration form. No agencies with Lacey Act enforcement authority will bring prosecutions or forfeiture actions for failing to complete the paper declaration form before April 1, 2009; however, if any person submits a form and it

contains false information, they may be prosecuted. We also invite public comment on the paper declaration form. Comments related to the content of the declaration form should be submitted by one of the methods provided under the heading **ADDRESSES** at the beginning of this notice and not to the Lacey Act mailbox. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), APHIS requested and received the Office of Management and Budget's emergency approval to collect information that the Lacey Act requires importers to include in the declaration and that is not already being collected for other purposes. The emergency approval is valid for 6 months and allowed us to collect the information and make the paper form available for immediate use. On January 5, 2009, we published an information collection notice in the **Federal Register** (74 FR 259–260, Docket No. APHIS–2008–0136) soliciting comments from the public (as well as affected agencies) on these information collection requirements and requesting an extension of the 6-month emergency approval.

Availability of Electronic System

The Department of Homeland Security's Bureau of Customs and Border Protection (CBP) already collects some of the information that the Lacey Act amendments require importers to include in their declarations. CBP is currently modifying its Automated Commercial System (ACS) to collect the remaining data required to be declared. As noted in our October 2008 **Federal Register** notice, we intend to begin enforcement of the declaration requirements upon completion of those modifications. At this time, CBP still anticipates completing the changes to the system by April 1, 2009, and phase II remains scheduled to begin on April 1, 2009. If there are any changes to that date, we will notify the public through a **Federal Register** notice.

Additional Information

APHIS will continue to provide the latest information regarding the Lacey Act on our Web site, <http://www.aphis.usda.gov>. The Web site currently contains the Lacey Act, as amended; a slideshow covering background and context, new requirements, commodities and products covered, information on prohibitions, and the current status of implementation of the declaration requirement of the Lacey Act; frequently asked questions; the phase-in implementation plan; and the paper declaration form. The Web site will be

updated as new materials become available. We encourage persons interested in receiving timely updates on APHIS's Lacey Act efforts to register for our stakeholder registry at <https://web01.aphis.usda.gov/PPQStakeWeb2.nsf> and select "Lacey Act Declaration" as a topic of interest.

Done in Washington, DC, this 29th day of January 2009.

William H. Clay,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9–2232 Filed 1–29–09; 4:15 pm]

BILLING CODE 3410–34–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Information Collection To Be Submitted to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act; Initial Certification

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

ACTION: Notice; request for comments.

SUMMARY: The Committee for Purchase From People Who Are Blind or Severely Disabled (Committee) is submitting the information collection listed below to OMB for approval under the provisions of the Paperwork Reduction Act. This notice solicits comments on those information collection activities.

DATES: Submit your written comments on the information collection on or before April 8, 2009.

ADDRESSES: Submit your comments on the requirements to Edward Yang, Chief Information Officer, Committee for Purchase From People Who Are Blind or Severely Disabled, 1421 Jefferson Davis Highway, Jefferson Plaza 2, Suite 10800, Arlington, VA 22202–3259; fax (703) 603–0655; or e-mail to rulecomments@abilityone.gov.

FOR FURTHER INFORMATION CONTACT: Edward Yang to request a copy of the applicable forms or explanatory material at the addresses shown above.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR Part 1320, which implement provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. The Committee plans to submit a request to OMB to renew its

approval of the information collection concerning initial certification of nonprofit agencies serving people who are blind or who have other severe disabilities to participate in the Javits-Wagner-O'Day (JWOD) Program. The Committee will request a 3-year term of approval for these information collection activities.

Federal agencies 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 these collections of information are 3037-0002 and 3037-0001.

The Javits-Wagner-O'Day Act of 1971 (41 U.S.C. 46-48c) is the authorizing legislation for the AbilityOne Program. The AbilityOne Program creates jobs and training opportunities for people who are blind or who have other severe disabilities. Its primary means of doing so is by requiring Government agencies to purchase selected products and services from nonprofit agencies employing such individuals. The AbilityOne Program is administered by the Committee. Two national, independent organizations, National Industries for the Blind (NIB) and NISH, help State and private nonprofit agencies participate in the AbilityOne Program.

The implementing regulations for the Javits-Wagner-O'Day Act, which are located at 41 CFR Chapter 51, provide the requirements, procedures, and standards for the AbilityOne Program. Section 51-4.2 of the regulations sets forth the standards that a nonprofit agency must meet to qualify for participation in the AbilityOne Program. Under this section of the regulations, a nonprofit agency that would like to participate in the AbilityOne Program must submit documentation (e.g., articles of incorporation and by-laws) demonstrating its nonprofit status and a completed copy of the appropriate Initial Certification form (Committee Form 401 or 402). This documentation helps the Committee determine whether the applicant nonprofit agency is appropriate for inclusion in the AbilityOne Program.

This information collection renewal request seeks approval for the Committee to continue to collect the information required under 41 CFR 51-4.3 of the regulations so that the Committee can continue to verify the appropriateness of nonprofit agencies that would like to participate in the AbilityOne Program. There are no changes to these current collection activities in this renewal request.

Title: Annual Certification—Qualified Nonprofit Agency Serving People Who Are Blind, 41 CFR 51-4.2.

OMB Control Number: 3037-0001.

Form Number: Committee Form 403.

Description of Respondents:

Nonprofit agencies serving people who are blind that would like to participate in the AbilityOne Program.

Annual Number of Respondents:

About 70 nonprofit agencies serving people who are blind will annually request to be newly verified for participation in the AbilityOne Program.

Total Annual Burden Hours: Burden is estimated to average 6 hours per respondent. Total annual burden is 420 hours. Note: This burden estimate is only for the reporting of information; a separate burden estimate exists for the recordkeeping requirement.

Title: Initial Certification—Qualified Nonprofit Agency Serving People Who Are Severely Disabled, 41 CFR 51-4.2.

OMB Control Number: 3037-0002.

Form Number: Committee Form 404.

Description of Respondents:

Nonprofit agencies serving people who are severely disabled that would like to participate in the AbilityOne Program.

Annual Number of Respondents:

About 550 nonprofit agencies serving people who are severely disabled will annually request to be newly verified for participation in the AbilityOne Program.

Total Annual Burden Hours: Burden is estimated to average 6 hours per respondent. Total annual burden is 3,300 hours. Note: This burden estimate is only for the reporting of information; a separate burden estimate exists for the recordkeeping requirement.

We invite comments concerning this renewal on: (1) Whether the collection of information is necessary for the proper performance of our agency's functions, including whether the information will have practical utility; (2) the accuracy of our estimate of the burden of the 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.

Kimberly M. Zeich,

Deputy Executive Director.

[FR Doc. E9-2230 Filed 2-2-09; 8:45 am]

BILLING CODE 6353-01-P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: Friday, January 30, 2009; 5 p.m.–6 p.m.

PLACE: Cohen Building, Room 3360, 330 Independence Ave., SW., Washington, DC 20237.

CLOSED MEETING: The members of the Broadcasting Board of Governors (BBG) will meet in a special session to review and discuss budgetary issues relating to U.S. Government-funded non-military international broadcasting. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b.(c)(9)(B)) In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b.(c)(2) and (6))

FOR FURTHER INFORMATION CONTACT:

Persons interested in obtaining more information should contact Timi Nickerson Kenealy at (202) 203-4545.

Timi Nickerson Kenealy,
Acting Legal Counsel.

[FR Doc. E9-2305 Filed 1-30-09; 4:15 pm]

BILLING CODE 8610-01-P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Notice

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of meeting.

DATE AND TIME: Wednesday, February 11, 2009; 11 a.m. e.s.t.

PLACE: Via Teleconference, Public Dial In—1-800-597-7623, Conference ID# 83711892.

Meeting Agenda

- I. Approval of Agenda
- II. Program Planning
 - FY 2009 Statutory Report
- III. Future Agenda Items
- IV. Adjourn

FOR FURTHER INFORMATION CONTACT:

Lenore Ostrowsky, Acting Chief, Public Affairs Unit (202) 376-8582.

Dated: January 30, 2009.

David Blackwood,
General Counsel.

[FR Doc. E9-2327 Filed 1-30-09; 4:15 pm]

BILLING CODE 6335-01-P

DEPARTMENT OF COMMERCE**Submission for OMB Review;
Comment Request**

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

Agency: U.S. Census Bureau.

Title: Generic Clearance for Geographic Partnership Programs.

Form Number(s): Various.

OMB Control Number: 0607-0795.

Type of Request: Extension of a currently approved collection.

Burden Hours: 557,930.

Number of Respondents: 10,154.

Average Hours Per Response: 55 hours.

Needs and Uses: The U.S. Census Bureau requests approval from OMB for a three-year extension of the generic clearance entitled Geographic Partnership Programs (GPPs) that will cover a number of activities needed to update the Master Address File/ Topologically Integrated Geographic Encoding and Referencing (MAF/ TIGER) database (MTdb) with associated address and geographic information. The information to be collected in these programs in cooperation with tribal, state, and local governments and other partners, are essential to the mission of the Census Bureau and directly contributes to the successful outcome of censuses and surveys conducted by the Census Bureau. The generic clearance will allow the Census Bureau to focus its limited resources on actual operational planning, development of procedures, and implementation of programs to update and improve the geographic information maintained in the MTdb.

Census will follow the protocol of past generic clearances: submit clearance requests at least two weeks before the planned start of each activity that give more exact details, examples of forms, and final estimates of respondent burden. A year-end summary will be filed with OMB after the close of each fiscal year giving results of each activity conducted.

The following categories of activities are included under the clearance:

—Local Update of Census Addresses (LUCA) Appeals.

—New Construction Program.

—Redistricting Data Program.

—Participant Statistical Areas Program and Tribal Statistical Areas Program (PSAP and TSAP).

—Traffic Analysis Zones (TAZs) Program.

—School District Review Program (SDRP).

All activities listed above directly support the Census Bureau's efforts to maintain its geographic database (addresses, features, and political and statistical boundaries) in partnership with local agencies nationwide. Because tribal, state, and local governments have current knowledge of and data about where housing growth and change are occurring in their jurisdictions, their input into the overall development of the address list for the census makes a vital contribution. Similarly, those governments are in the best position to work with geographic boundaries, and benefit themselves when their address list is complete and data tabulation areas are drawn to the highest possible level of accuracy.

Affected Public: State, local or tribal Governments.

Frequency: One time.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 United States Code, Sections 16,141, and 193.

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

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

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

Dated: January 29, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9-2229 Filed 2-2-09; 8:45 am]

BILLING CODE 3510-07-P

DEPARTMENT OF COMMERCE**Submission for OMB Review;
Comment Request**

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

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Feedback Survey for Annual Tsunami Warning Communications Test.

Form Number(s): None.

OMB Approval Number: 0648-0539.

Type of Request: Regular submission.

Burden Hours: 31.

Number of Respondents: 250.

Average Hours per Response: 5 minutes.

Needs and Uses: In compliance with the Tsunami Warning and Education Act (Pub. L. 109-424) and to assess the effectiveness of NOAA/National Weather Service's (NWS) Tsunami Warning System, this information collection survey is needed to gather specific feedback following testing of the associated NWS communications systems. The tests are planned annually March/April and September using a web-based survey. Post-test feedback will be requested from emergency managers, the media, law enforcement officials, local government agencies/officials, and the general public. The responses will be solicited for a limited period immediately following completion of this test, not to exceed seven days. This web-based survey will allow for efficient collection of information regarding the effectiveness of the Tsunami Warning System.

Affected Public: Individuals or households; State, Local or Tribal Government.

Frequency: Semi-annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395-3897.

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

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395-7825, or David_Rostker@omb.eop.gov.

Dated: January 29, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9-2235 Filed 2-2-09; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE**Submission for OMB Review;
Comment Request**

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

Agency: Bureau of Industry and Security (BIS).

Title: Offsets in Military Exports.

OMB Control Number: 0694-0084.

Form Number(s): None.

Type of Request: Regular submission.

Burden Hours: 270.

Number of Respondents: 30.

Average Hours per Response: 9.

Needs and Uses: This information collection is required by the Defense Production Act. The Act requires United States firms to furnish information to the Department of Commerce regarding offset agreements exceeding \$5,000,000 in value associated with sales of weapon systems or defense-related items to foreign countries or foreign firms. Offsets are industrial or commercial compensation practices required as a condition of purchase in either government-to-government or commercial sales of defense articles and/or defense services as defined by the Arms Export Control Act and the International Traffic in Arms Regulations. Such offsets are required by most major trading partners when purchasing U.S. military equipment or defense-related items.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Jasmeet Seehra, (202) 395-3123.

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

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Jasmeet Seehra, OMB Desk Officer, FAX number (202) 395-5167, or Jasmeet_K_Seehra@omb.eop.gov.

Dated: January 29, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9-2239 Filed 2-2-09; 8:45 am]

BILLING CODE 3510-33-P

DEPARTMENT OF COMMERCE

[Docket No. 07-BIS-0028]

Under Secretary for Industry and Security; In the Matter of: Wayne LaFleur, Respondent

Final Decision and Order

This matter is before me upon a Recommended Decision and Order ("RDO") of an Administrative Law Judge ("ALJ"), as further described below.

In a charging letter filed on December 18, 2007, the Bureau of Industry and Security ("BIS") alleged that Respondent Wayne LaFleur committed one violation of the Export Administration Regulations (currently codified at 15 CFR Parts 730-774 (2008) ("Regulations")), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. sections 2401-2420 (2000)) (the "Act"),¹ when he exported a vessel to Cuba during a regatta without the license required by the Regulations. Specifically, the charge against Respondent Wayne LaFleur is as follows:

Charge 1 15 CFR 764.2(a)—Exporting a Vessel Without the Required License

Between on or about May 22, 2003 through on or about May 31, 2003, [LaFleur] engaged in conduct prohibited by the Regulations when he exported the vessel

EKA, an item subject to the Regulations and classified on the Commerce Control List under Export Control Classification Number ("ECCN") 8A992.f, to Cuba during a regatta without the required Department of Commerce authorization. On more than one occasion prior to the regatta,

¹ From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 CFR, 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. sections 1701-1707) ("IEEPA"). On November 13, 2000, the Act was reauthorized and remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of July 23, 2008 (73 FR 43603, July 25, 2008), has continued the Regulations in effect under IEEPA.

BIS's Office of Export Enforcement had advised race organizers that all regatta participants required a Department of Commerce export license prior to exporting their vessel to Cuba. On or about May 22, 2003, the Office of Export Enforcement met with [LaFleur] and other regatta participants at the regatta's pre-launch party and informed [LaFleur] that a license was required for the temporary export of vessels to Cuba during the regatta. On or about May 23, 2003, the Office of Export Enforcement provided [LaFleur] with a written letter indicating again that an export license was required by all regatta participants who took their vessels to Cuba and that a particular license that had been identified by some participants as authority to take their vessel to Cuba during the regatta did not in fact authorize the temporary export of a vessel. Pursuant to Section 746.2 of the Regulations, a license is required for the export of vessels to Cuba and no license was obtained for the export of the EKA to Cuba. In temporarily exporting a vessel to Cuba without the required license, [LaFleur] committed one violation of Section 764.2(a) of the Regulations.

December 18, 2007 Charging Letter against Wayne LaFleur, at 1-2 (Exhibit Q to BIS's Motion for Decision).²

On October 31, 2008, BIS filed a motion for decision on the record against Respondent LaFleur as to the above charge. Based on the record before him, the ALJ determined that reliable and substantial evidence demonstrated clearly, under the applicable preponderance standard, that the facts described in the charging letter more probably than not occurred as alleged by BIS. RDO, at 7.³ The ALJ found that LaFleur committed one violation of Section 764.2(a) of the Regulations when he exported to Cuba the vessel EKA, an item subject to the Regulations and classified under ECCN 8A992.f, without the export license required by the Regulations. Id. The ALJ also recommended, following consideration of the record, that LaFleur be assessed a monetary penalty of \$8,000.00 and a denial of export privileges for three years. RDO, at 10-11. The ALJ further recommended that the denial of export privileges be

² In the charging letter, LaFleur's name was inadvertently misspelled as "Lefleur", which BIS sought to correct in its Motion for Decision. I agree with the conclusion in the RDO that this spelling change was not substantive and in no way prejudiced LaFleur, who clearly understood that the charging letter was addressed to him. RDO, at 3, fn. 4.

³ The certified record, including the original copy of the RDO dated December 8, 2008, was received in my office on December 11, 2008.

suspended for the entire three-year period provided that LaFleur pays the monetary penalty within 30 days of the Final Decision and Order and that LaFleur commits no further violations during the period of suspension. *Id.* In his RDO, the ALJ indicated that, should LaFleur fail to abide by any of the conditions of suspension, then the denial order will become active with regard to LaFleur. *Id.*

The RDO, together with the entire record in this case, has been referred to me for final action under Section 766.22 of the Regulations. I find that the record supports the ALJ's findings of fact and conclusions of law, including that Section 764.2(a) of the Regulations, like most of the violation provisions in Section 764.2, is a strict liability offense, and that the movement of a vessel from the United States to Cuba, even if only temporary, is considered an export to Cuba under the Regulations. RDO, at 4–5, 10. I also agree with the ALJ that when BIS decides to seek, or declines to seek, charges in an administrative or civil enforcement action, BIS is entitled to the discretion that a criminal prosecutor is afforded in determining whether or which charges to bring or not to bring. Such decisions are committed to the agency's prosecutorial discretion and unsuitable for review by an ALJ. RDO, at 8–10 (citing cases).

Moreover, LaFleur's assertion that he "applied for and obtained from the United States Coast Guard permission to leave the security zone with stated destination being Varadero[,] Cuba," (LaFleur's Response to Interrogatory No. 7; see also Answer of LaFleur dated January 17, 2008), neither was substantiated by the record nor is a defense under the Regulations. It is well established that approval of an action by one agency does not alleviate the need of a person to comply with another agency's regulatory requirements', even if such agency responsibilities might overlap. Nor is there any inconsistency in requiring the person subject to different regulation to meet all such requirements. As the DC Circuit has observed:

[W]e expect persons in a complex regulatory state to conform their behavior to the dictates of many laws, each serving its own special purpose. In cases of this type, an administrative agency need not make any "accommodation" to the constraints that other laws place upon the regulated person.

N.Y. Shipping Ass'n., Inc. v. Federal Maritime Commission, 854 F.2d 1338, 1367 (DC Cir. 1988) (finding there was no "conflict" requiring compliance with federal shipping laws even though activities which might be sanctioned under federal labor laws violate federal

shipping laws). That for another purpose the U.S. Coast Guard might have given its approval for LaFleur to leave the "security zone" of the United States did not relieve him of his legal obligation to obtain the required export license under the Regulations before taking his vessel to Cuba.

I also find that the imposition of a civil monetary penalty and suspension of export privileges for three years is appropriate based upon a review of the entire record, given the nature of the violations, the facts of this case, and the importance of deterring future unauthorized exports.⁴ Albeit LaFleur may have received warning from the BIS agents shortly before the beginning of the regatta, these warnings were clear and unequivocal in informing him of the need to secure the requisite authorization under the Regulations before exporting the vessel to Cuba, even on a temporary basis. LaFleur ignored these warnings at his peril.

Based on my review of the entire record, I affirm the findings of fact and conclusions of law in the RDO.

Accordingly, *it is therefore ordered*,

First, that a civil penalty of \$8,000.00 is assessed against Wayne LaFleur, which shall be paid to the U.S. Department of Commerce within (30) thirty days from the date of entry of this Order.

Second, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. 3701–3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, LaFleur will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and administrative charge.

Third, for a period of three (3) years from the date that this Order is published in the **Federal Register**, Wayne LaFleur, 339 Torrey Pines Point, Naples, FL 34113, and his successors or assigns, and when acting for or on behalf of LaFleur, his representatives, agents, or employees (hereinafter collectively known as the "Denied Person") may not participate, directly or indirectly, in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations;

or
C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Fourth, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Fifth, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to the Denied Person by affiliation, ownership,

⁴ The sanction recommended by the ALJ also is consistent with the sanction proposed by BIS.

control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of the Order.

Sixth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Seventh, that, as authorized by Section 766.17(c) of the Regulations, the denial period set forth above shall be suspended in its entirety, and shall thereafter be waived, provided that: (1) Within thirty days of the effective date of the Decision and Order, LaFleur pays the monetary penalty imposed against him of \$8,000.00 in full, and (2) for a period three years from the effective date of the Decision and Order, LaFleur commits no further violations of the Act or Regulations.

Eighth, that the final Decision and Order shall be served on LaFleur and shall be published in the **Federal Register**. In addition, the ALT's Recommended Decision and Order, except for the section related to the Recommended Order, shall also be published in the **Federal Register**.

This Order, which constitutes the final agency action in this matter, is effective upon publication in the **Federal Register**.

Dated: January 7, 2009.

Daniel O. Hill,

Deputy Under Secretary of Commerce for Industry and Security.

United States Department of Commerce
Bureau of Industry and Security
Washington, DC 20230

In the Matter of: Wayne LaFleur,
Respondent. [Docket No.: 07-BIS-0028]

Recommended Decision and Order¹

Issued: December 8, 2008.

Issued by: Hon. Waiter J. Brudzinski,
Administrative Law Judge.

Preliminary Statement

This Recommended Decision and Order is issued in response to the October 31, 2008 Motion for Decision on the Record as to the charge filed against Respondent Wayne LaFleur ("LaFleur" or "Respondent")

¹ For proceedings involving violations not relating to Part 760 of the Export Enforcement Regulations, 15 CFR 766.17(b) and (b)(2) prescribe that the Administrative Law Judge's decision be a "Recommended Decision and Order." The violations alleged in this case are found in Part 764. Therefore, this is a "Recommended" decision. That section also prescribes that the Administrative Law Judge make recommended findings of fact and conclusions of law that the Under Secretary for Export Administration, Bureau of Industry and Security, U.S. Department of Commerce, must affirm, modify or vacate. 15 CFR 766.22. The Under Secretary's action is the final decision for the U.S. Commerce Department. 15 CFR 766.22(e).

submitted by the Bureau of Industry and Security, United States Department of Commerce ("BIS" or "Agency"). In accordance with the undersigned's Scheduling Order of May 7, 2008, Respondent had until December 1, 2008 to respond to BIS's motion. Since that time has passed with no response, this matter is now ripe for decision.

On April 1, 2008, the undersigned consolidated the following BIS cases: (1) In the Matter of Peter Goldsmith, Docket: 07-BIS-0026; (2) In the Matter of Michele Geslin, Docket: 07-BIS 0027; and (3) In the Matter of Wayne LaFleur, Docket: 07-BIS-0028. However, this Recommended Decision and Order pertains only to Respondent LaFleur. On September 8, 2008, BIS moved for a summary decision against Geslin and Goldsmith on the charge that each had aided and abetted a violation of the Regulations through their organization of and participation in the regatta. On October 15, 2008, the undersigned issued a Recommended Decision and Order granting BIS's Motion for Summary Decision. Accordingly, the matters involving Geslin and Goldsmith have been excluded from the case caption.

On December 18, 2007, BIS issued a charging letter initiating administrative enforcement proceedings against LaFleur. The charging letter alleged that LaFleur committed one violation of the Export Administration Regulations (currently codified at 15 CFR parts 73 0-774 (2008)) (the "Regulations"),² issued under the Export Administration Act of 1979, as amended (50 U.S.C. App. sections 2401-2420 (2000)) (the "Act").³

Specifically, the charging letter alleged that, between on or about May 22, 2003 through on or about May 31, 2003, LaFleur engaged in prohibited conduct by exporting a vessel to Cuba in violation of the Regulations. The charge read as follows:

Charge 1 15 CFR 764.2(a)—Exporting a Vessel without the Required License

Between on or about May 22, 2003 through on or about May 31, 2003, [LaFleur] engaged in conduct prohibited by the Regulations when he exported the vessel EKA, an item subject to the Regulations and classified on the Commerce Control List under Export Control Classification Number ("ECCN") 8A992.f, to Cuba during a regatta without the required Department of Commerce authorization. On more than one occasion prior to the regatta, BIS's Office of Export Enforcement had advised race organizers that all regatta participants required a Department of Commerce export license prior to

² The charged violation occurred in 2003. The Regulations governing the violation at issue are found in the 2003 version of the Code of Federal Regulations (15 CFR parts 730-774 (2003)). The 2008 Regulations establish the procedures that apply to this matter.

³ Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), as extended most recently by the Notice of July 23, 2008 (73 FR 43,603 (July 25, 2008)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C 1701-1706 (2000)).

exporting their vessel to Cuba. On or about May 22, 2003, the Office of Export Enforcement met with [LaFleur] and other regatta participants at the regatta's pre-launch party and informed [LaFleur] that a license was required for the temporary export of vessels to Cuba during the regatta. On or about May 23, 2003, the Office of Export Enforcement provided [LaFleur] with a written letter indicating again that an export license was required by all regatta participants who took their vessels to Cuba and that a particular license that had been identified by some participants as authority to take their vessel to Cuba during the regatta did not in fact authorize the temporary export of a vessel. Pursuant to Section 746.2 of the Regulations, a license is required for the export of vessels to Cuba and no license was obtained for the export of the EKA to Cuba. In temporarily exporting a vessel to Cuba without the required license, [LaFleur] committed one violation of Section 764.2(a) of the Regulations.

Ex. Q (Charging Letter against LaFleur).⁴

On October 31, 2008, BIS moved for decision on the record as to the charge against LaFleur, on the basis that the preponderance of evidence, including admissions from LaFleur, demonstrated clearly that LaFleur committed the violation of § 764.2(a), as alleged. Section 764.2(a) provides as follows:

(a) Engaging in prohibited conduct. No person may engage in any conduct prohibited by or contrary to, or refrain from engaging in any conduct required by, the EAA, the EAR, or any order, license or authorization issued thereunder.

15 CFR 764.2(a) (2003, 2008). Section 764.2(a) thus makes it unlawful, inter alia, for a person to engage in conduct prohibited by or contrary to the Regulations, such as engaging in the unlicensed export of an item when a license was required for such export under the Regulations. Id.

As with most of the Section 764.2 violation provisions, Section 764.2(a) of the Regulations is a strict liability offense. See 15 CFR 764.2; *Iran Air v. Kugelman*, 996 F.2d 1253, 1258-9 (D.C. Cir. 1993) (upholding the Department of Commerce's reading of the Regulations as allowing for strict liability charges); In the Matter of Kabba & Amir Investments, Inc., d.b.a. International Freight Forwarders ("International Freight Forwarders"), 73 FR 25649, 25652 (May 7, 2008) (concluding that Section 764.2(b) is a strict liability offense), aff'd by Under Secretary, 73 FR 25648; see also In the Matter of Petrom GmbH International Trade, 70 FR 32743, 32754 (June 6, 2005).⁵

⁴ In the charging letter, LaFleur's name was inadvertently misspelled as "Lefleur", as discussed in BIS's Motion for Decision. This spelling correction is not substantive and in no way prejudices LaFleur, who clearly understood that the charging letter was addressed to him, as evidenced by his participation in this matter. This Court has previously found that BIS may amend typographical errors, especially when no prejudice to the Respondent would result from such amendment. See *International Freight Forwarders*, 73 FR at 25649 fn. 4, aff'd, 73 FR at 25648.

⁵ Section 764.2(b) states a violation for causing, aiding or abetting "the doing of any act prohibited

Under the Regulations, the movement of a vessel from the United States to Cuba is considered an export, even if the vessel remains in Cuba only temporarily. See 15 CFR 734.2(b) (2003, 2008) (defining “export” to include “an actual shipment or transmission of items subject to the [Regulations] out of the United States * * *”).⁶ The Regulations also provide that an exporter “will need a license to export or reexport all items subject to the [Regulations] * * * to Cuba * * *” except in circumstances, not applicable to the current situation, where a License Exception would authorize the export or reexport. 15 CFR 746.2(a) (2003, 2008).

Pursuant to 5 U.S.C. 556(d), BIS bears the burden of proving the allegations in the charging letter under the traditional “preponderance of the evidence” standard of proof typically applicable in administrative or civil litigation. In the Matter of Ihsan Medhat Elashi, 71 FR 38843, 38847 (July 10, 2006), aff’d, 71 FR 38843–38844. See also *Steadman v. S.E.C.*, 450 U.S. 91, 102 (1981); *Sea Island Broadcasting Corp. of S.C. v. F.C.C.*, 627 F.2d 240, 243 (D.C. Cir. 1980). Thus, BIS must establish simply that it is more likely than not that the respondent committed the violation alleged in the charging letter. See *Herman & Maclean v. Huddleston*, 459 U.S. 375, 390 (1983). BIS needs, in other words, to show “that the evidence of a fact is more probable than its nonexistence.” *Concrete Pipe & Products v. Construction Laborers Pension Trust*, 508 U.S. 602, 622 (1993). To satisfy this burden, BIS may rely upon direct or circumstantial evidence. See, generally, *Monsanto Co. v. Spray-Rite Serv. Corp.*, 465 U.S. 752, 764–765 (1984).

Section 764.3 of the Regulations sets forth the sanctions BIS may seek for violations of the Regulations. The applicable sanctions are: (i) A monetary penalty, (ii) a denial of export privileges under the Regulations, and (iii) suspension from practice before the Bureau of Industry and Security. 15 CFR 764.3. Pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)) (“IEEPA”), as amended, the maximum monetary penalty in this case is \$250,000 per violation. International Emergency Economic Powers Enhancement

* * * by the Regulations,” and thus, inter alia, sets forth a violation for causing, aiding or abetting conduct that would constitute a violation of Section 764.2(a). Compare 15 CFR 764.2(a) and (b). Moreover, where the Regulations include a knowledge or intent requirement, such a requirement is explicitly set forth in Section 764.2. See e.g., 15 CFR 764.2(e) (Acting with knowledge of a violation). The Regulations and their history also make clear that a knowledge or intent requirement will be included specifically in the pertinent violation provision when such a requirement is intended. See 45 FR 84022 (Dec. 22, 1980) (removing knowledge requirement from several violation provisions in the Regulations).

⁶ Temporary exports have been subject to export control laws for more than 60 years. See e.g., 7 FR 5007 (July 2, 1942) (amending Part 802 of title 32 of the Code of Federal Regulations to authorize the export of certain stores and spare parts that are carried abroad on vessels and planes for use or consumption by the crew); cf. 15 CFR 740.1 5(b)(2008).

Act of 2007, Public Law 110–96, 121 Stat. 1011 (2007); see also International Freight Forwarders, 73 FR at 25653, aff’d at 73 FR 25648.

BIS requests that I recommend to the Under Secretary of Commerce for Industry and Security⁷ that LaFleur (1) be assessed a civil penalty in the amount of \$8,000 and (2) be made subject to a denial of export privileges to last for three years and remain suspended during that period provided that LaFleur pays the monetary fine against him within thirty days of the date of the Final Decision and Order, and does not commit any further violations of the Regulations during the three year period of the suspension. BIS seeks this sanction because the item exported in this case involved a vessel controlled for anti-terrorism reasons to a country that the United States Government has designated a state sponsor of international terrorism.⁸ In addition, LaFleur was advised numerous times by federal agents before the regatta in question began that taking a vessel to Cuba without the proper Department of Commerce (DOC) authorization was a violation of U.S. law.⁹

I find that decision on the record in favor of BIS is appropriate as to the charge filed against Respondent Wayne LaFleur because reliable and substantial evidence demonstrates clearly, under the preponderance standard, that the facts described in the charging letter more probably than not occurred as alleged. This decision has been made based on my review of the entire record before me.

In LaFleur’s January 17, 2008 answer to the charging letter, LaFleur failed to deny that he took the vessel EKA to Cuba without the proper DOC authorization, as alleged in the charging letter. Ex. M. More directly, in response to BIS’s requests for admission and interrogatories, LaFleur admitted that he took the vessel EKA from Key West, Florida, to Cuba during the regatta and that he was owner of the vessel EKA during the regatta. Exs. J & N (at Requests & Admissions 19, 20, 21); Exs. I & O (at Interrogatories & Responses 2, 10).

⁷ Pursuant to Section 13(c)(1) of the Export Administration Act and § 766.17(b)(2) of the Regulations, in export control enforcement cases, the ALJ makes recommended findings of fact and conclusions of law that the Under Secretary must affirm, modify or vacate. The Under Secretary’s action is the final decision for the U.S. Department of Commerce.

⁸ See 15 CFR Part 766, Supp. No. 1, section III.A. (discussing the factors that BIS considers in the context of settling an enforcement action and stating that “BIS is more likely to seek a greater monetary penalty and/or denial of export privileges * * * in cases involving: (1) Exports or reexports to countries subject to anti-terrorism controls * * *”). Cuba has been designated as a Terrorist Supporting Country and is subject to such anti-terrorism controls. See 15 CFR Part 740, Supp. No. 1 Country Group E:1 (2003); 15 CFR 742.1, 746.2 (2003).

⁹ See 15 CFR Part 766, Supp. No. 1, section III.A. (discussing the factors that BIS considers in the context of settling an enforcement action and stating that “[i]n cases involving gross negligence, willful blindness to the requirements of the EAR, or knowing or willful violations, BIS is more likely to seek a denial of export privileges * * * and/or a greater monetary penalty than BIS would otherwise typically seek”).

LaFleur has admitted, and BIS has confirmed through a search of its licensing database, that no DOC license was obtained for the export of the vessel EKA to Cuba. Exs. L & P; see Exs. J & N (at Request & Admission 22) (when asked to admit that he did not apply for a license, LaFleur stated that he “had no knowledge that a vessel was being exported,” therefore failing to specifically deny the request and implicitly acknowledging that he did not, in fact, apply for a license for the export of his vessel).

Although the provision of the Regulations that LaFleur violated was a strict liability offense, it is notable, for purposes of the penalty, that LaFleur also admitted to receiving numerous written warnings from BIS Special Agents prior to the regatta in question. LaFleur admits that he received a letter on May 22, 2003 explaining that vessels are “exported” to Cuba “even if they merely visit a Cuban port,” and that he received two letters on May 23, 2003, informing him that taking a vessel into Cuban territorial waters without the proper export license would be a violation of federal law. Exs. J & N (at Requests & Admissions 24, 25); see also Exs. B & C. In addition, LaFleur acknowledged, in response to BIS interrogatories, that he was cautioned by DOC officials on May 22, 2003, the day before the regatta started, that a license issued to an organization called Conchord Cayo Hueso for the export of certain medical items to Cuba would not authorize members or asserted members of that organization to export vessels to Cuba. Exs. I & O (at Interrogatory & Response 4) (stating that at the pre-launch party on May 22, 2003, he was informed by DOC that the license in question “may not be valid”).¹⁰ LaFleur further admits that this latter fact was confirmed to him by BIS Special Agents on the day of the regatta. Exs. J & N (at Request & Admission 25) (admitting receipt of warning on day of regatta); Ex. C.

LaFleur has asserted that other captains involved in the regatta in question were not charged with violations of the Regulations. Even if true, this would not be relevant to the case at hand. Criminal prosecutors have broad discretion over whom to prosecute, a position that “rests largely on the recognition that the decision to prosecute is particularly ill-suited to judicial review.” *Wayte v. U.S.*, 470 U.S. 598 at 607 (1985). “Such factors as the strength of the case, the prosecution’s general deterrence value, the government’s enforcement priorities, and the case’s relationship to the government’s overall enforcement plan are not readily susceptible to the kind of analysis the courts are competent to undertake.” *Id.* Similarly, “when an agency decides to seek enforcement actions (or declines to seek enforcement actions), it is entitled to the same type of discretion that a prosecutor is afforded in bringing (or not bringing) criminal charges.” *Greer v. Chao*, 492 F.3d 962 at 964 (8th Cir. 2007) (parentheticals in original). Indeed, the Supreme Court “has

¹⁰ BIS provided evidence in this matter that it had searched its electronic licensing database and determined conclusively that no license for the export of vessels to Cuba was applied for or issued to Conchord Cayo Hueso or its president during the applicable time period. Ex. P.

recognized on several occasions over many years that an agency's decision not to prosecute or enforce, whether through civil or criminal process, is a decision generally committed to an agency's absolute discretion." *Heckler v. Chaney*, 470 U.S. 821, 831 (1985). Such agency decisions are unsuitable for judicial review because they involve "a complicated balancing of a number of factors which are particularly within [the agency's] expertise," such as assessing where agency resources are best spent and whether a particular enforcement action fits the agency's overall policies. *Id.* at 837. "The agency is far better equipped than the courts to deal with the many variables involved in the proper ordering of its priorities." *Id.*

After admitting the material facts against him, and in light of the absence of any viable defense by LaFleur, it is clear that the preponderance of the evidence weighs in favor of BIS, and that BIS is entitled to decision in its favor with regard to the charge against LaFleur.

Recommended Findings of Fact and Conclusions of Law

Based upon the record before me, I make following findings of fact and conclusions of law:

I. Findings of Fact

1. The vessel EKA was classified under Export Control Classification Number 8A992.f on the Commerce Control List at the time of the alleged violations. Ex. K.

2. The vessel EKA was exported to Cuba during the regatta described in the charging letter. Exs. J & N (at Request & Admission 20).

3. Prior to the regatta that began on May 23, 2003, Wayne LaFleur was warned specifically at least twice by BIS that a Department of Commerce license was required to export a vessel to Cuba. Exs. J & N (at Requests & Admissions 24, 25).

4. No Department of Commerce authorization was obtained for the export to Cuba of the vessel EKA. Exs. J & N (at Request & Admission 22); Ex. L; Ex. P.

5. Wayne LaFleur owned the vessel EKA during the regatta described in the charging letter and traveled upon the vessel EKA to Cuba during the regatta. Exs. J & N (at Requests & Admissions 19, 21); Exs. I & O (at Interrogatory & Response 10).

II. Conclusions of Law

1. The export of the vessel EKA to Cuba required an export license from the Department of Commerce. Ex. L.

2. Section 764.2(a) of the Regulations is a strict liability provision.

3. LaFleur engaged in conduct prohibited by the Regulations when he exported the vessel EKA to Cuba without the required Department of Commerce export license.

Respondent's role in the export of a vessel from the United States to Cuba in this case demonstrates indifference to U.S. export control laws. Therefore, I find that BIS's penalty recommendation is entirely reasonable, especially given the repeated efforts made by BIS agents to specifically inform Respondent of the proper export licensing requirements.

Accordingly, I recommend that the Under Secretary enter an Order imposing an \$8,000

penalty against LaFleur and a denial of export privileges for three years. Further, I recommend the Order state that the denial of export privileges shall be suspended for the entire three year period, provided that LaFleur pays the monetary penalty within 30 days of the Final Decision and Order and that LaFleur commits no further violations during the period of the suspension. Should LaFleur fail to abide by any of the conditions of suspension, then the denial order will become active. This penalty is consistent with prior cases decided by this Court. See, e.g., *International Freight Forwarders*, 73 FR at 25652, *aff'd* at 73 FR 25648 (imposing a monetary penalty of \$6,000 and a conditional denial of export privileges for three years against a freight forwarder that aided and abetted an attempted export of medical equipment to Cuba).

The terms of the denial of export privileges against Respondent should be consistent with the standard language used by BIS in such orders, with modifications as necessary to comply with the conditional nature of the denial of export privileges described above.

Wherefore,

Recommended Order

[REDACTED SECTION]

Accordingly, I am referring this Recommended Decision and Order to the Under Secretary of Commerce for Industry and Security for review and final action for the agency, without further notice to the Respondent, as provided in Section 766.7 of the Regulations.

Within thirty (30) days after receipt of this Recommended Decision and Order, the Under Secretary will issue a written order affirming, modifying or vacating the Recommended Decision and Order. 15 CFR 766.22(c). A copy of the Agency's regulations for Review by the Under Secretary is attached as Appendix B.

Done and dated this 8th day of December, 2008 at New York, New York.

Hon. Walter J. Brudzinski,
Administrative Law Judge.

Appendix A—List of Exhibits

A. Agency's Exhibits

Exhibit A Letter to Michele Geslin dated April 24, 2003, with copy of certified mail receipt signed by Michele Geslin. (3 pages)

Exhibit B Letter to race participants from BIS Special Agent dated April 22, 2003. (1 page)

Exhibit C Letter to All Third Annual Conch Republic Cup Race Participants dated May 23, 2003; letter to race participants, dated May 23, 2003. (2 pages)

Exhibit D Letter to Peter Goldsmith dated April 10, 2003, with copy of certified mail receipt initialed by Peter Goldsmith. (3 pages)

Exhibit E Charging Letter addressed to Michele Geslin dated December 18, 2007. (3 pages)

Exhibit F Charging Letter addressed to Peter Goldsmith dated December 18, 2007. (3 pages)

Exhibit G Michele Geslin's answer to Charging Letter dated February 10, 2008. (1 page)

Exhibit H Peter Goldsmith's answer to Charging Letter dated February 10, 2008. (1 page)

Exhibit I BIS's Interrogatories and Requests for Production of Documents, with certificate of service dated May 14, 2008. (14 pages)

Exhibit J BIS's Requests for Admission to include Exhibits A through D, and certificate of service dated May 14, 2008. (15 pages)

Exhibit K Certified Licensing Determination dated September 4, 2008. (2 pages)

Exhibit L Certified copy of letter indicating results of BIS's search of its electronic licensing database for records of export licenses or applications related to the transactions in question. (2 pages)

Exhibit M Wayne LaFleur's answer to Charging Letter, dated January 17, 2008. (1 page)

Exhibit N Wayne LaFleur's response to BIS's Requests for Admission (see Ex. J for requests). (1 page)

Exhibit O Wayne LaFleur's response to BIS's Interrogatories and Requests for Production of Documents (see Ex. I for interrogatories and requests). (2 pages)

Exhibit P Certified copy of letter indicating results of BIS's search of its electronic licensing database for records of export licenses or applications related to the transaction in question. (2 pages)

Exhibit Q Charging Letter addressed to Wayne LaFleur, dated December 18, 2007. (5 pages)

B. Respondent's Exhibits

Respondent did not file any exhibits.

Appendix B—Notice to the Parties Regarding Review by Under Secretary

Title 15—Commerce and Foreign Trade

Subtitle B—Regulations Relating to Commerce and Foreign Trade

Chapter VII—Bureau of Industry and Security, Department of Commerce

Subchapter C—Export Administration Regulations

Part 766—Administrative Enforcement Proceedings

15 CFR 766.22

Section 766.22 Review by Under Secretary

(a) Recommended decision. For proceedings not involving violations relating to part 760 of the EAR, the administrative law judge shall immediately refer the recommended decision and order to the Under Secretary. Because of the time limits provided under the EAA for review by the Under Secretary, service of the recommended decision and order on the parties, all papers filed by the parties in response, and the final decision of the Under Secretary must be by personal delivery, facsimile, express mail or other overnight carrier. If the Under Secretary cannot act on a recommended decision and order for any reason, the Under Secretary will designate another Department of Commerce official to receive and act on the recommendation.

(b) Submissions by parties. Parties shall have 12 days from the date of issuance of the

recommended decision and order in which to submit simultaneous responses. Parties thereafter shall have eight days from receipt of any response(s) in which to submit replies. Any response or reply must be received within the time specified by the Under Secretary.

(c) Final decision. Within 30 days after receipt of the recommended decision and order, the Under Secretary shall issue a written order affirming, modifying or vacating the recommended decision and order of the administrative law judge. If he/she vacates the recommended decision and order, the Under Secretary may refer the case back to the administrative law judge for further proceedings. Because of the time limits, the Under Secretary's review will ordinarily be limited to the written record for decision, including the transcript of any hearing, and any submissions by the parties concerning the recommended decision.

(d) Delivery. The final decision and implementing order shall be served on the parties and will be publicly available in accordance with § 766.20 of this part.

(e) Appeals. The charged party may appeal the Under Secretary's written order within 15 days to the United States Court of Appeals for the District of Columbia pursuant to 50 U.S.C. app. 2412(c)(3).

Certificate of Service

I hereby certify that I have served the foregoing Recommended Decision and Order as indicated below to the following person(s):

Mario Mancuso, Under Secretary of Commerce for Industry and Security, U.S. Department of Commerce, Room H-3892, 14th Street & Constitution Avenue, NW., Washington, DC 20230. (By Facsimile to 202-482-2387 and Federal Express.)
Charles G. Wall, Gregory Michelsen, Attorneys for Bureau of Industry and Security, Office of Chief Counsel for Industry and Security, U.S. Department of Commerce, Room 11-3 839, 14th Street & Constitution Avenue, NW., Washington, DC 20230. (By Facsimile to 202-482-0085 and Federal Express.)

Wayne LaFleur, 339 Torrey Pines Point, Naples, FL 34113. (By Federal Express.)
Peter Goldsmith, 2627 Staples Avenue, Key West, FL 33040. (By Federal Express.)
Michele Geslin, 2627 Staples Avenue, Key West, FL 33040. (By Federal Express.)
Hearing Docket Clerk, ALJ Docketing Center, 40 S. Gay Street, Room 412, Baltimore, Maryland 21202-4022. (By Facsimile to 410-962-1746 and Federal Express.)

Done and dated this 8th day of December 2008, New York, New York.

Regina V. Maye,

Reginald Specialist to the Hon. Walter J. Brudzinski, Administrative Law Judge.

[FR Doc. E9-654 Filed 2-2-09; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Emerging Technology and Research Advisory Committee; Notice of Partially Closed Meeting

The Emerging Technology and Research Advisory Committee (ETRAC) will meet on February 10, 2009, 10:45 a.m., Room 4830, in the Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on emerging technology and research activities, including those related to deemed exports.

Agenda

Open Session

1. State Department—What is ITAR and its scope? What is the line of demarcation of dual-use? Areas of regulatory uncertainty. Importance of deemed export controls on dual-use technologies subject to the CCL.

2. BIS view: What are dual-use technologies; how they differ from ITAR; where regulatory jurisdiction becomes fuzzy; jurisdictional issues on how best to resolve the issues.

3. Deemed Exports—BIS National Security & Technology Transfer Controls

- What is a deemed export in all of its flavors.

- What services does EA provide to help academics and industry researchers understand current regulations and comply with these rules.

4. BIS Export Enforcement (EE)—deemed export rules for dual-use technologies subject to EAR over 5 years.

- Describe the levels of violations; prime reasons for violations.

- Typical EE responses.
- Frequency of prosecution.
- Real life examples.

5. ISTAC, MTAC briefings

- Approaches BIS/TACs use in identifying, ranking, or prioritizing technologies in terms of importance, sensitivity, availability, etc.

- Describe decision trees, process models, systematic processes individual TACs.

- Discuss methods TACs use to identify, rank, or prioritize technologies that might be subject to deemed export regulations.

- Describe types of guidance and tools BIS provides to TACs to enable sound decision making on imposition or relaxation of deemed export regulations.

6. Public Comments and Questions.

Closed Session

7. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at Yspringer@bis.doc.gov no later than February 3, 2009.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via e-mail.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 14, 2009, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 (10)(d)), that the portion of the meeting dealing with matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 10(a)1 and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482-2813.

Dated: January 29, 2009.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. E9-2266 Filed 2-2-09; 8:45 am]

BILLING CODE 3510-JT-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Materials Technical Advisory Committee; Notice of Partially Closed Meeting

The Materials Technical Advisory Committee will meet on February 12, 2009, 10 a.m., Herbert C. Hoover Building, Room 3884, 14th Street between Constitution & Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the

Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials and related technology.

Agenda

Open Session

1. Opening Remarks and Introduction of new chairman.
2. Reminder of the request for public comments that was posted in the **Federal Register** (January 5) on the effects of export control on decision to use U.S. origin parts and components.
3. Full implementation of the Validated End-User program to China announced January 13.
4. New License requirements for Iran published January 15.
5. Report of Composite Working group and ECCN review subgroup.
6. New business.
7. Public comments from teleconference and physical attendees.

Closed Session

8. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 section 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at Yspringer@bis.doc.gov no later than February 5, 2009.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the materials should be forwarded prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on October 1, 2008, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, that the portion of the meeting dealing with matters the premature disclosure of which would likely frustrate the implementation of a proposed agency action as described in 5 U.S.C.

552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 section 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482-2813.

Dated: January 28, 2009.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. E9-2237 Filed 2-2-09; 8:45 am]

BILLING CODE 3510-JT-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-475-819]

Certain Pasta from Italy: Final Results of the Eleventh (2006) Countervailing Duty Administrative Review

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

SUMMARY: The U.S. Department of Commerce ("the Department") has completed its administrative review of the countervailing duty order on certain pasta from Italy for the period January 1, 2006 through December 31, 2006. We find that De Matteis Agroalimentare S.p.A. ("De Matteis"), Pastificio Lucio Garofalo S.p.A. ("Garofalo"), and F.lli De Cecco di Filippo Fara San Martino S.p.A. ("De Cecco") received countervailable subsidies, and that Pastificio Felicetti SrL ("Felicetti") did not receive any countervailable subsidies. The final net subsidy rates for the reviewed companies are listed below in the section entitled "Final Results of Review."

EFFECTIVE DATE: February 3, 2009.

FOR FURTHER INFORMATION CONTACT:

Andrew McAllister or Brandon Farlander, AD/CVD Operations, Office 1, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1174 and (202) 482-0182, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 6, 2008, the Department published in the **Federal Register** its preliminary results of the administrative review of the countervailing duty order on certain pasta from Italy for the period January 1, 2006, through December 31, 2006. See *Certain Pasta from Italy: Preliminary Results of the 11th (2006) Countervailing Duty Administrative Review*, 73 FR 45721 (Aug. 6, 2008) ("*Preliminary Results*").

Since the signing of the *Preliminary Results*, we sent a supplemental questionnaire to the Government of Italy ("GOI") on July 31, 2008, and received the GOI response on August 13, 2008. We invited interested parties to comment on the preliminary results. A

case brief was received from Garofalo on September 5, 2008. No rebuttal briefs were received, and the Department did not conduct a hearing in this review because none was requested.

Based on our analysis of the supplemental questionnaire response from the GOI, we have revised the net subsidy rates for De Matteis, Garofalo, and De Cecco. Therefore, the final results differ from the preliminary results.

Period of Review

The period of review ("POR") for which we are measuring subsidies is January 1, 2006, through December 31, 2006.

Scope of the Order

Imports covered by the order are shipments of certain non-egg dry pasta in packages of five pounds four ounces or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastasis, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions.

Excluded from the scope of the order are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. Also excluded are imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by the Istituto Mediterraneo Di Certificazione, Bioagricoop S.r.l., QC&I International Services, Ecocert Italia, Consorzio per il Controllo dei Prodotti Biologici, Associazione Italiana per l'Agricoltura Biologica, or Codex S.r.l. In addition, based on publicly available information, the Department has determined that, as of August 4, 2004, imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by Bioagricert S.r.l. are also excluded from this order. See Memorandum from Eric B. Greynolds to Melissa G. Skinner, dated August 4, 2004, which is on file in the Department's Central Records Unit ("CRU") in Room 1117 of the main Department building. In addition, based on publicly available information, the Department has determined that, as of March 13, 2003, imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by Istituto per la Certificazione Etica e Ambientale (ICEA) are also excluded from this order. See Memorandum from Audrey Twyman to Susan Kuhbach,

dated February 28, 2006, entitled "Recognition of Istituto per la Certificazione Etica e Ambientale (ICEA) as a Public Authority for Certifying Organic Pasta from Italy" which is on file in the Department's CRU.

The merchandise subject to review is currently classifiable under items 1901.90.90.95 and 1902.19.20 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

Scope Rulings

The Department has issued the following scope rulings to date:

(1) On August 25, 1997, the Department issued a scope ruling that multicolored pasta, imported in kitchen display bottles of decorative glass that are sealed with cork or paraffin and bound with raffia, is excluded from the scope of the antidumping and countervailing duty orders. See Memorandum from Edward Easton to Richard Moreland, dated August 25, 1997, which is on file in the CRU.

(2) On July 30, 1998, the Department issued a scope ruling finding that multipacks consisting of six one-pound packages of pasta that are shrink-wrapped into a single package are within the scope of the antidumping and countervailing duty orders. See Letter from Susan H. Kuhbach to Barbara P. Sidari, dated July 30, 1998, which is available in the CRU.

(3) On October 26, 1998, the Department self-initiated a scope inquiry to determine whether a package weighing over five pounds as a result of allowable industry tolerances is within the scope of the antidumping and countervailing duty orders. On May 24, 1999, we issued a final scope ruling finding that, effective October 26, 1998, pasta in packages weighing or labeled up to (and including) five pounds four ounces is within the scope of the antidumping and countervailing duty orders. See Memorandum from John Brinkmann to Richard Moreland, dated May 24, 1999, which is available in the CRU.

(4) On April 27, 2000, the Department self-initiated an anti-circumvention inquiry to determine whether Pastificio Fratelli Pagani S.p.A.'s importation of pasta in bulk and subsequent repackaging in the United States into packages of five pounds or less constitutes circumvention with respect to the antidumping and countervailing duty orders on pasta from Italy pursuant to section 781(a) of the Tariff Act of 1930, as amended ("the Act"), and 19

CFR 351.225(b). See *Certain Pasta from Italy: Notice of Initiation of Anti-Circumvention Inquiry of the Antidumping and Countervailing Duty Orders*, 65 FR 26179 (May 5, 2000). On September 19, 2003, we published an affirmative finding of the anti-circumvention inquiry. See *Anti-Circumvention Inquiry of the Antidumping and Countervailing Duty Orders on Certain Pasta from Italy: Affirmative Final Determinations of Circumvention of Antidumping and Countervailing Duty Orders*, 68 FR 54888 (September 19, 2003).

Information Considered Since the Preliminary Results

In the seventh administrative review and the preliminary results of this review, we found the following social security reductions and exemptions (*sgravi*) programs countervailable: Law 223/91, Article 8, Paragraph 2 and Article 25, Paragraph 9. We provided the GOI with two opportunities to demonstrate that these programs are not countervailable but the GOI did not respond to the industry usage portion of these supplemental questionnaires.

For another social security benefit (provided under Legislative Decree 276/03), we stated in the preliminary results that we needed additional information. However, the GOI did not provide industry usage data in response to our post-preliminary questionnaire. Moreover, based on our review of the record evidence, we find that Legislative Decree 276/03 is a continuation of one or more other programs determined to be countervailable in the seventh administrative review (Law 25/55 or Law 56/87).

Based on the above, we find that the GOI has not provided sufficient information that would lead us to reconsider our prior findings that Social Security benefits under Law 223/91, Article 8, Paragraph 2 and Law 223/91, Article 25, Paragraph 9 are countervailable. Further, we find that, based upon record evidence, Legislative Decree 276/03 provides for a continuation of subsidy benefits which we previously determined were countervailable. Therefore, we are treating these benefits as countervailable subsidies for the final results.

For additional details, see January 27, 2009, Issues and Decision Memorandum for the Eleventh (2006) Countervailing Duty Administrative Review of Certain Pasta from Italy ("Decision Memorandum").

As a result of the Department's finding with respect to Legislative Decree 276/03, there has been one change since the *Preliminary Results*

which affects the subsidy rate for De Matteis, De Cecco, and Garofalo. See Decision Memorandum.

All issues raised in the case brief filed by Garofalo are addressed in the Decision Memorandum, which is hereby adopted by this notice. Attached to this notice as an appendix is a list of the issues which this interested party raised and to which we have responded in the Decision Memorandum. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Department's CRU. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at <http://ia.ita.doc.gov/frn/index.html>. The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated individual subsidy rates for De Matteis, Garofalo, and De Cecco. For the revised rate calculations, see Memorandum to the File, "2006 Final Results Calculation Memorandum for De Matteis Agroalimentare S.p.A.," dated January 27, 2009 ("De Matteis Final Calc Memo"); Memorandum to the File, "2006 Final Results Calculation Memorandum for F.lli De Cecco di Filippo Fara San Martino S.p.A.," dated January 27, 2009 ("De Cecco Final Calc Memo"); and Memorandum to the File, "2006 Final Results Calculation Memorandum for Pastificio Lucio Garofalo S.p.A.," dated January 27, 2009 ("Garofalo Final Calc Memo"). For a complete analysis of the programs found to be countervailable and the basis for the Department's determination, see the Decision Memorandum.

For the period January 1, 2006, through December 31, 2006, we find the net subsidy rates for the producers/exporters under review to be those specified in the chart shown below:

Producer/Exporter	Net Subsidy Rate
De Matteis Agroalimentare S.p.A.	2.69%
Pastificio Lucio Garofalo S.p.A.	1.62%
F.lli De Cecco di Filippo Fara San Martino S.p.A.	0.88%
Pastificio Felicetti Srl ...	0.00%
All-Others Rate	3.85%

The calculations will be disclosed to the interested parties in accordance with 19 CFR 351.224(b).

Because the countervailing duty rate for Felicetti is zero, we will instruct U.S.

Customs and Border Protection (“CBP”) to liquidate entries for Felicetti during the period January 1, 2006, through December 31, 2006, without regard to countervailing duties in accordance with 19 CFR 351.106(c). For De Matteis, Garofalo, and De Cecco, the Department will instruct CBP to assess countervailing duties at these net subsidy rates. The Department will issue appropriate instructions directly to CBP 15 days after publication of these final results of review.

For all other companies that were not reviewed (except Barilla G. e R. F.lli S.p.A. and Gruppo Agricoltura Sana S.r.l., which are excluded from the order, and Pasta Lensi S.r.l. which was revoked from the order), the Department has directed CBP to assess countervailing duties on all entries between January 1, 2006, and December 31, 2006, at the rates in effect at the time of entry.

The Department also intends to instruct CBP to collect cash deposits of estimated countervailing duties at the rates shown above on all shipments of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. Since the countervailable subsidy rate for Felicetti is zero, the Department will instruct CBP to continue to suspend liquidation of entries, but to collect no cash deposits.

For all non-reviewed firms (except Barilla G. e R. F.lli S.p.A. and Gruppo Agricoltura Sana S.r.l., which are excluded from the order, and Pasta Lensi S.r.l. which was revoked from the order), we will instruct CBP to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate applicable to the company. These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested.

This notice serves as a reminder to parties subject to administrative protective order (“APO”) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: January 27, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

APPENDIX

List of Comments and Issues in the Decision Memorandum

Comment 1: Garofalo’s Benchmark Rate for Its 1998 Loan under Law 64/86

Comment 2: Garofalo’s Discount Rate for Grants under Law 64/86

[FR Doc. E9-2238 Filed 2-2-08; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XM93

Council Coordination Committee Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: NMFS will host a meeting of the Council Coordination Committee (CCC), consisting of the Regional Fishery Management Council chairs, vice chairs, and executive directors in February 2009. The intent of this meeting is to discuss issues of relevance to the Councils, including FY 2009 budget allocations, budgetary planning and performance metrics, the upcoming 5-year grants awards cycle, and implementation of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: The meeting will begin at 9 a.m. on Wednesday, February 25, 2009, recess at 5:30 p.m. or when business is complete; and reconvene at 8:30 a.m. on Thursday, February 26, 2009, and adjourn by 4:30 p.m.

ADDRESSES: The meeting will be held at the Crowne Plaza Hotel, 8777 Georgia Avenue, Silver Spring, MD 20910, telephone 301-589-0800, fax 301-587-4791.

FOR FURTHER INFORMATION CONTACT: William D. Chappell: telephone 301-713-2337 or e-mail at William.Chappell@noaa.gov; or Linda Moon: telephone 301-713-2337 or e-mail at Linda.Moon@noaa.gov.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA) of 2006 established the Council Coordination

Committee (CCC) by amending Section 302 (16 U.S.C. 1852) of the Magnuson-Stevens Act. The committee consists of the chairs, vice chairs, and executive directors of each of the eight Regional Fishery Management Councils authorized by the Magnuson-Stevens Act or other Council members or staff. NMFS will host this meeting and provide reports to the CCC for its information and discussion. The main topics of discussion will be the FY2009 budget allocation, budgetary planning and performance metrics, implementation of the provisions of the MSRA, and related guidance and technical regulatory changes. All sessions are open to the public.

Proposed Agenda

Wednesday, February 25, 2009

9:00 a.m. Morning Session Begins
9:00–10:00 Welcome comments and open session with Councils
10:00–10:30 Marine Protected Areas Update

10:30–10:45 Break

10:45–12:00 p.m. Budget issues (General update and FY 2009 allocation)

- Council base funding
- Limited Access Privilege Programs funding

- Stipends

12:00–1:30 Lunch

1:30 Afternoon Session Begins

1:30–3:00 Planning Programming Budgeting and Execution System and Performance Metrics

3:00–3:15 Break

3:15–4:15 Five Year Grants Award Cycle

4:15–5:15 Observer Costs Comparison

5:15–5:30 Maintaining Complete Council Fishery Management Plans (FMPs)

5:30 p.m. Adjourn for the Day

Thursday, February 26, 2009

8:30 a.m.—Morning Session Begins

8:30–10:00 Magnuson-Stevens Act Implementation—

- General overview/update
- Marine Recreational Information Program (MRIP)

- National Standard 2 guidelines
- National Environmental Policy Act procedures

- Annual catch limit (ACL) and accountability measure guidance

10:00–10:15 a.m. Break

10:15–12:00 p.m. Council Reports/ Updates by each Council

- ACLs—Status of implementation for 2010 & 2011

- Ending overfishing—Measures in FMPs or plans for each stock

- Rebuilding status—Progress toward targets for each stock

12:00–1:30 Lunch
 1:30–Afternoon Session Begins
 1:30–2:30 Stock Assessment Criteria/
 Stock Status Reporting.
 2:30–3:30 Marine Debris and Derelict
 Fishing Gear Update
 3:30–3:45 Break
 3:45–4:15 Contractor Badges for Council
 Members/Staffs
 4:15–4:30 Wrap-up
 4:30 p.m. Adjourn.

The order in which the agenda items are addressed may change. The CCC will meet as late as necessary to complete scheduled business.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Linda Moon at 301–713–2337x131 at least 5 working days prior to the meeting.

Dated: January 27, 2009

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
 [FR Doc. E9–2264 Filed 2–2–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XN03

National Marine Fisheries Service; Public Meeting

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

ACTION: Notice of a public workshop.

SUMMARY: NMFS will hold a workshop for participants that are required to submit an Economic Data Report for the Bering Sea and Aleutian Islands Crab Rationalization Program.

DATES: The workshop will be held on Tuesday, February 17, 2009, from 2 p.m. to 5 p.m. Pacific Standard Time.

ADDRESSES: The workshop will be held at the Pacific Seafood Processors Association office, 1900 W. Emerson Place, 1205, Seattle, WA 98119.

FOR FURTHER INFORMATION CONTACT: Brian Garber-Yonts, (206) 526-6301 or brian.garber-yonts@noaa.gov.

SUPPLEMENTARY INFORMATION: The Bering Sea and Aleutian Islands (BSAI) Crab Rationalization Program requires any owner or leaseholder of a vessel or processing plant that harvested or processed crab in certain BSAI fisheries

to submit an Economic Data Report (EDR) for the previous calendar year. NMFS staff will hold a workshop with BSAI crab industry members to review current crab EDR data documentation and data quality findings. Workshop participants will also discuss the development of best practices guidelines for completing crab EDR forms and discuss possible revisions to the current crab EDR forms. For further information on the Crab Rationalization Program, please visit the NMFS Alaska Region website at <http://www.alaskafisheries.noaa.gov>.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This workshop is physically accessible to people with disabilities. Requests for special accommodations should be directed to Brian Garber-Yonts (see **FOR FURTHER INFORMATION CONTACT**) at least 5 working days before the workshop date.

Dated: January 29, 2009.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
 [FR Doc. E9–2206 Filed 2–2–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XN04

National Marine Fisheries Service; Public Meeting

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

ACTION: Notice of a public workshop.

SUMMARY: NMFS will hold a workshop for participants that are required to submit an Economic Data Report (EDR) for the Amendment 80 Cooperative Program.

DATES: The workshop will be held on Tuesday, February 17, 2009, from 9:30 a.m. to 12 p.m. Pacific Standard Time.

ADDRESSES: The workshop will be held at the Groundfish Forum Office, 4241 21st Avenue West, Suite 302 Seattle, WA 98199, telephone: (206) 213–5270.

FOR FURTHER INFORMATION CONTACT: Brian Garber-Yonts, (206) 526–6301 or brian.garber-yonts@noaa.gov.

SUPPLEMENTARY INFORMATION: The Amendment 80 Cooperative Program requires any Amendment 80 quota share permit holder to submit an Economic Data Report for the previous calendar year. NMFS staff will hold a workshop with industry members to review current Amendment 80 EDR forms and documentation requirements. Workshop participants will also discuss the development of best practices guidelines for completing Amendment 80 EDR forms and may discuss possible future revisions to the Amendment 80 EDR forms. For further information on the Amendment 80 Cooperative Program, please visit the NMFS Alaska Region website at <http://www.alaskafisheries.noaa.gov>.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This workshop is physically accessible to people with disabilities. Requests for special accommodations should be directed to Brian Garber-Yonts (see **FOR FURTHER INFORMATION CONTACT**) at least 5 working days before the workshop date.

Dated: January 29, 2009.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
 [FR Doc. E9–2207 Filed 2–2–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XN02

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Joint Skate Committee and Advisory Panel, in February, 2009, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Thursday, February 19, 2009, at 9 a.m.

ADDRESSES: This meeting will be held at the Holiday Inn, 195 Westgate Drive, Brockton, MA 02301; telephone: (508) 588-6300; fax: (508) 580-4384.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465-0492.

SUPPLEMENTARY INFORMATION:

Depending on decisions made at the February Council meeting on Draft Amendment 3 to the FMP for the Northeast Skate Complex, the Oversight Committee and Advisory Panel will either develop and recommend a final alternative from the Draft Amendment 3 document (available at <http://www.nefmc.org/skates/planamen/amend3/>

[Amend3_DSEIS_Sept08.htm](http://www.nefmc.org/skates/planamen/amend3_DSEIS_Sept08.htm)), or revise Draft Amendment 3 and develop new or additional alternatives to meet the revised skate Acceptable Biological Catch (ABC/ACL) and Total Allowable Landing (TAL) limits. Other unrelated skate management issues may also be discussed at the chair's discretion, but no formal action will be taken on them.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978)

465-0492, at least 5 days prior to the meeting date.

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

Dated: January 29, 2009.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. E9-2205 Filed 2-2-09; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 6, 2009.

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 Leader, 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.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the

Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: January 28, 2009.

Angela C. Arrington,

Leader, Information Collections Clearance Division, Regulatory Information Management Services, Office of Management.

Office of Postsecondary Education, Teacher and Student Development Programs Service

Type of Review: Revision.

Title: Graduate Assistance in Areas of National Need (GAANN).

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 225.

Burden Hours: 2,475.

Abstract: Graduate Assistance in Areas of National Need (GAANN) grantees must submit a performance report annually. The reports are used to evaluate grantee performance. Further, the data from the reports will be aggregated to evaluate the accomplishments and impact of the GAANN Program as a whole. Results will be reported to the Secretary in order to respond to Government Performance and Results Act (GPRA) requirements.

Requests for copies of the proposed information collection request may be accessed from <http://edicsweb.ed.gov>, by selecting the "Browse Pending Collections" link and by clicking on link number 3939. 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 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. E9-2209 Filed 2-2-09; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Project No. 13327-000]

Glacier Fork Hydropower, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

January 27, 2009.

On November 10, 2008, and supplemented on January 26, 2009, Glacier Fork Hydropower, LLC filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Glacier Fork Hydroelectric Project (Glacier Fork). Glacier Fork would be located on Glacier Fork of the Knik River, in the Borough of Matanuska-Susitna, Alaska.

The proposed Glacier Fork project would consist of: (1) A proposed 700-foot-long, 430-foot-high dam; (2) a proposed reservoir having a proposed surface area of 390 acres and a storage capacity of 75,000 acre-feet and normal water surface elevation of 980 feet above mean low sea level (msl); (3) a proposed 8,300-foot-long, 12-foot diameter steel penstock; (4) a proposed powerhouse containing three generating units having an installed capacity of 75-megawatts; (5) a proposed tailrace; (6) a proposed 25-mile-long, 115-kilovolt transmission line; and (7) appurtenant facilities. The proposed Glacier Fork Hydroelectric Project would have an average annual generation of 320-gigawatt-hours.

FERC Contact: Patricia W. Gillis, 202-502-8735.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at <http://www.ferc.gov/filing-comments.asp>. More information about this project can be viewed or printed on the "eLibrary" link of the Commission's Web site at

<http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-13327) in the docket number field to access the document. For assistance, call toll-free 1-866-208-3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E9-2215 Filed 2-2-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. CP09-47-000]

Oasis Pipeline, LP and Oasis Pipe Line Company Texas L.P.; Notice of Application for Natural Gas Act Section 3 Authorization and Presidential Permit

January 27, 2009.

Take notice that on January 14, 2009, Oasis Pipeline, LP and Oasis Pipe Line Company Texas L.P. (collectively referred to as Applicant), 800 East Sonterra Boulevard Suite 400 San Antonio, TX 78258, filed a joint application in Docket No. CP09-47-000 pursuant to section 3 of the Natural Gas Act (NGA) and Subpart B of section 153 of the Commission's Regulations, seeking authorization to site, construct, and operate certain natural gas pipeline facilities, called the Clint Export Project, at a point in the international boundary between the United States and Mexico in El Paso County, Texas. Applicant further requests a Presidential Permit for such facilities, all as more fully set forth in the application which is on file with the Commission and open to the public for inspection. This filing is available for review at the Commission or may be viewed on the Commission's Web site at <http://www.ferc.gov>, using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at (866) 208-3676, or for TTY, contact (202) 502-8659.

Any questions regarding the application may be directed to Jim Wright, Associate General Counsel, Energy Transfer Company, 711 Louisiana Suite 900 Houston, TX 77002, phone: (832) 668-1454, fax: (832) 668-1127, or e-mail: jim.wright@energytransfer.com.

Specifically, Applicant proposes to extend the Oasis System from the Waha Hub in Pecos County, TX to the proposed crossing in El Paso County,

TX. The proposed extension, including the Border Crossing Facilities, will consist of approximately 188 miles of 36-inch pipeline and will be capable of transporting up to 600,000 MMBtu per day to the Mexican border.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice, the Commission staff will either: complete the environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party

to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: February 17, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9-2219 Filed 2-2-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13331-000]

City of Quincy, IL; Notice of Competing Preliminary Permit Application Accepted for Filing and Soliciting Comments and Motions To Intervene

January 27, 2009.

On November 10, 2008, the City of Quincy, Illinois filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Quincy Area Hydropower Project, which would be located near the town of Clarksville on the Mississippi River at the existing U.S. Army Corps of Engineers' Lock and Dam No. 24 and Reservoir in Calhoun County, Illinois and Pike County, Missouri. The proposed project would utilize federal lands.

The proposed Quincy Area Hydropower Project would utilize the U.S. Army Corps of Engineers' Lock and Dam No. 24 and would consist of the following new facilities: (1) An intake structure, (2) a powerhouse containing 30 generating units with a total installed capacity of 15 MW, (3) a 2.7-mile-long, 34.5 kV underground transmission line, connecting to an existing power line, and (4) appurtenant facilities. The project would have an annual generation of 88 gigawatt-hours, which would be sold to a local utility.

Applicant Contact: Mr. Kenneth Cantrell, Director of Administrative Services, City of Quincy, 730 Maine Street, Quincy, Illinois 62301; *phone:* (217) 228-4500. *FERC Contact:* Tom Papsidero, (202) 502-6002.

Competing Application: This application competes with Project No. 13127-000 filed March 3, 2008. Competing applications must be filed on or before November 30, 2008.

Deadline for filing comments and motions to intervene: 60 days from the issuance of this notice. Comments and motions to intervene may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at <http://www.ferc.gov/filing-comments.asp>. More information about

this project can be viewed or printed on the "eLibrary" link of the Commission's Web site at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-13331) in the docket number field to access the document. For assistance, call toll-free 1-866-208-3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E9-2216 Filed 2-2-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13356-000]

Slatersville Hydro, LLC; Notice of Application Tendered for Filing With the Commission, Soliciting Additional Study Requests, and Establishing Procedural Schedule for Licensing and Deadline for Submission of Final Amendments

January 27, 2009.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Exemption From Licensing.

b. *Project No.:* P-13356-000.

c. *Date Filed:* January 15, 2009.

d. *Applicant:* Slatersville Hydro, LLC.

e. *Name of Project:* Slatersville Hydroelectric Project.

f. *Location:* On the Branch River in Providence County, Rhode Island. The project would not occupy any land of the United States.

g. *Filed Pursuant to:* Public Utilities Regulatory Policies Act of 1978, 16 U.S.C. 2705, 2708.

h. *Applicant Contact:* Michael P. DeFrancesco, 87 Hall Road, Exeter, RI 02822, (401) 742-1968.

i. *FERC Contact:* Tom Dean, (202) 502-6041.

j. *Cooperating Agencies:* We are asking Federal, state, and local agencies and Indian tribes with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status should follow the instructions for filing comments described in item l below.

k. Pursuant to Section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis

for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. Deadline for filing additional study requests and requests for cooperating agency status: March 16, 2009.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Additional study requests and requests for cooperating agency status may be filed electronically via the internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at (<http://www.ferc.gov>) under the "eFiling" link.

m. This application is not ready for environmental analysis at this time.

n. *Description of Project:* The Slatersville Project would consist of: (1) The existing upper 13-foot-high RI Dam No. 43 consisting of: (a) An existing 175-foot-long spillway; and (b) a westerly abutment equipped with two 3.5-foot-wide, 5.7-foot-high sluice gates impounding; (2) an 172-reservoir with a normal water surface elevation of 250.7 feet National Geodetic Vertical Datum 1988 (NGVD) leading to; (3) two new 150-foot-long, 4.5-foot-diameter penstocks connecting; (4) a new powerhouse containing two generating units with a total installed capacity of 360 kilowatts; (5) a new 25-foot-long tailrace discharging water back into the Branch River; and (6) appurtenant facilities. The project would have an average annual generation of about 1,250 megawatt-hours.

In addition to a new powerhouse, penstocks, and tailrace, project facilities would consist of: (1) New 1.5-foot-high flashboards on top of RI Dam No. 43; and (2) a new 0.5-mile-long, 13.8 kilovolt transmission line.

Project facilities may also include: (1) The existing lower 6-foot-high RI Dam No. 45 with a 105-foot-long spillway impounding; (2) the existing 0.3-acre reservoir with a normal water surface elevation of 231.9 feet NGVD located in the bypassed reach between RI Dam No. 43 and the new tailrace.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket

number excluding the three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll free at (866) 208-3676, or for TTY, contact (202) 502-8659. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. With this notice, we are initiating consultation with the Rhode Island State Historic Preservation Officer (SHPO), as required by section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

q. *Procedural schedule and final amendments:* The application will be processed according to the following Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate. The Commission staff proposes to issue one environmental assessment rather than issue a draft and final EA. Comments, terms and conditions, recommendations, prescriptions, and reply comments, if any, will be addressed in an EA. Staff intends to give at least 30 days for entities to comment on the EA, and will take into consideration all comments received on the EA before final action is taken on the license application.

Issue Acceptance Letter or Deficiency Letter—April 2009.

Issue Scoping Document—May 2009.

Notice of application is ready for environmental analysis—June 2009.

Notice of the availability of the EA—November 2009.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Kimberly D. Bose,

Secretary.

[FR Doc. E9-2217 Filed 2-2-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 460-033]

City of Tacoma, WA; Notice of Settlement Agreement and Soliciting Comments

January 27, 2009.

Take notice that the following settlement agreement has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Settlement Agreement.

b. *Project No.:* 460-033.

c. *Date Filed:* January 21, 2009.

d. *Applicant:* City of Tacoma, Washington (Tacoma).

e. *Name of Project:* Cushman Hydroelectric Project.

f. *Location:* Located on the North Fork of the Skokomish River, in Mason County, Washington, in part on federal lands in the Olympic National Forest and the Skokomish Indian Tribe Reservation.

g. *Filed Pursuant to:* Rule 602 of the Commission's Rules of Practice and Procedure, 18 CFR 385.602.

h. *Applicant Contact:* Mr. Michael A. Swiger, Counsel to the City of Tacoma, Washington, Van Ness Feldman, 1050 Thomas Jefferson Street, NW., Washington, DC 20007-3877; Telephone (202) 298-1800; e-mail—mas@vnf.com.

i. *FERC Contact:* Allan Creamer at (202) 502-8365, or by e-mail at allan.creamer@ferc.gov.

j. *Deadline for Filing Comments:* The deadline for filing comments on the Settlement Agreement is 30 days from the date of this notice (February 26, 2009). The deadline for filing reply comments is 45 days from the date of this notice (March 13, 2009). All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all participants filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if a participant files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the

instructions of the Commission's Web site (<http://www.ferc.gov>) under the "e-filing" link.

k. On behalf of itself, the Skokomish Indian Tribe, and six state and federal agencies, Tacoma filed a comprehensive settlement agreement (Agreement), along with a Joint Explanatory Statement (JES) for the Cushman Project. The purpose of the Agreement is to resolve, among the signatories, outstanding issues associated with the project, including, but not limited to, those associated with the DC Circuit Court of Appeals' remand of the Commission's July 30, 1998 Order Issuing Subsequent Major License. As detailed in the JES, the Agreement and proposed license articles provide specific measures for each of the license obligations set forth in the 1998 Order. The major issues addressed in the Agreement relate to: (1) Project operations (e.g., flows in the North Fork, channel maintenance flows, lake levels, ramping rates, etc.); (2) salmon and steelhead restoration activities (e.g., fish passage, hatchery and stocking program, habitat enhancements, etc.); (3) estuarine habitat enhancement; (4) wildlife habitat enhancement (e.g., land acquisition); (5) flooding on the North Fork and mainstem Skokomish River; (6) shoreline management and recreation access; and (7) adaptive management.

The filing includes a draft of Tacoma's license amendment to construct a new powerhouse at the base of Dam No. 2. Tacoma states that the full amendment will be filed separately, and requests that the Commission process the amendment contemporaneously with the Agreement. Tacoma also requests that the Commission schedule a technical conference to discuss any questions concerning the Agreement. The Commission will address the request for a technical conference after reviewing the comments received on the Agreement, and will institute a proceeding on the amendment application after it is filed.

Tacoma requests that the Commission: (1) Act expeditiously to approve the Agreement without modification; (2) extend the license term to June 30, 2048 (or 50 years from license issuance); and (3) approve the license amendment for the new North Fork powerhouse.

l. A copy of the Settlement Agreement is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov>, using the "e-Library" link. Enter the docket number, excluding the last three digits in the docket number

field to access the document. For assistance, contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at 1-866-208-3676, or for TTY, (202) 502-8659. A copy is also available for inspection and reproduction at the address in item h above.

Register online at <http://www.ferc.gov/esubscribenow.htm> to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Kimberly D. Bose,

Secretary.

[FR Doc. E9-2218 Filed 2-2-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP08-591-000]

Equitrans, L.P.; Notice Deferring Technical Conference Date

January 27, 2009.

Take notice that the technical conference scheduled in the above-captioned proceeding for January 28, 2009 is cancelled and will be rescheduled at a later date. For further information please contact Anna Fernandez at (202) 502-6682 or e-mail Anna.Fernandez@ferc.gov.

Kimberly D. Bose,

Secretary.

[FR Doc. E9-2213 Filed 2-2-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL03-141-006; EL03-168-006; EL03-171-005; EL03-177-006; EL03-178-005; EL03-139-008; EL03-140-005; EL03-162-004; EL03-165-010; EL03-169-007; EL03-172-005; EL03-175-005; EL03-200-009]

Bonneville Power Administration; Public Service Company of New Mexico; Salt River Project Agricultural Improvement and Power District; Tucson Electric Power Company; Western Area Power Administration; Arizona Public Service Company; Automated Power Exchange, Inc.; Pacific Gas and Electric Company; Portland General Electric Company; Puget Sound Energy, Inc.; San Diego Gas & Electric Company; Southern California Edison Company; Public Service Company of New Mexico; Notice of Filing

January 27, 2009.

Take notice that on January 23, 2009, Bonneville Power Administration, Public Service Company of New Mexico, Salt River Project Agricultural Improvement and Power District, Tucson Electric Power Company, Western Area Power Administration, Arizona Public Service Company, Automated Power Exchange, Inc., Pacific Gas and Electric Company, Portland General Electric Company, Puget Sound Energy, Inc., San Diego Gas & Electric Company, Southern California Edison Company, and Public Service Company of New Mexico, submitted a compliance filing in response to the Commission's December 22, 2008 Order, 125 FERC ¶ 61,345.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically

should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5 p.m. Eastern Time on February 17, 2009.

Kimberly D. Bose,
Secretary.

[FR Doc. E9-2214 Filed 2-2-09; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-SFUND-2005-0007, FRL-8770-3]

Agency Information Collection Activities; Proposed Collection; Comment Request; EPA Worker Protection Standards for Hazardous Waste Operations and Emergency Response (Renewal); EPA ICR Number 1426.08, OMB Control Number 2050-0105

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), 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). This ICR is scheduled to expire on March 31, 2009. Before submitting the ICR 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 April 6, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-SFUND-2005-0007 by one of the following methods:

- www.regulations.gov: Follow the on-line instructions for submitting comments.

- *E-mail:* superfund.docket@epa.gov.
- *Fax:* (202) 566-9744.
- *Mail:* EPA Docket Center, Environmental Protection Agency, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

Instructions: Direct your comments to Docket ID No. EPA-HQ-SFUND-2005-0007. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at 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 www.regulations.gov or e-mail. The www.regulations.gov Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

FOR FURTHER INFORMATION CONTACT: Sella M. Burchette, U.S. Environmental Response Team, MS 101, Building 18, Edison, NJ 08837, telephone number: 721-321-6726; fax number: 732-321-6724; e-mail address: burchette.sella@epa.gov.

SUPPLEMENTARY INFORMATION:

EPA has established a public docket for this ICR under Docket ID No. EPA-HQ-SFUND-2005-0007 established a public docket for each of the ICRs identified in this document (see the Docket ID numbers for each ICR that are provided in the text, which is available for online viewing at www.regulations.gov, or in person viewing at the Superfund Docket in the EPA Docket Center (EPA/DC), EPA

West, Room 3334, 1301 Constitution Ave., NW., Washington, DC). The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202-566-1744, and the telephone number for the Superfund Docket is 202-566-0276.

Use www.regulations.gov to obtain a copy of the draft collection of information, 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.

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;
- Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. 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.

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.

Affected entities: Entities potentially affected by this action are those State and local employees engaged in hazardous waste operations and emergency response in the 27 States that do not have Occupational Safety and Health Administration (OSHA) approved State plans.

Title: EPA Worker Protection Standards for Hazardous Waste Operation and Emergency Response (Renewal).

ICR numbers: EPA ICR No. 1426.08, OMB Control No. 2050-0105.

ICR status: This ICR is currently scheduled to expire on 03/31/09. This is a request renewal of a currently approved collection. 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: Section 126(f) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) requires EPA to set worker protection standards for State and local employees engaged in hazardous waste operations and emergency response in the 27 States that do not have Occupational Safety and Health Administration approved State plans. The EPA coverage, required to be identical to the OSHA standards, extends to three categories of employees: Those engaged in clean-ups at uncontrolled hazardous waste sites, including corrective actions at Treatment, Storage and Disposal (TSD) facilities regulated under the Resource Conservation and Recovery Act (RCRA); employees working at routine hazardous waste operations at RCRA TSD facilities, and employees involved in emergency response operations without regard to location. This ICR renews existing mandatory record keeping collection of ongoing activities including monitoring of any potential employee exposure at uncontrolled hazardous waste sites,

maintaining records of employee training, refresher training, medical exams and reviewing emergency response plans.

Burden Statement: The annual public reporting and recordkeeping burden for this collection is estimated to average 10.64 hours per response. Burden means the total time, effort, and 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; 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: 24,000.

Frequency of response: Annually.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 255,427 hours.

Estimated total annual costs: \$3,528,888, which is entirely for labor. There are no capital investment or maintenance and operational costs.

These burden estimates reflect what is currently approved by OMB, without change. EPA will provide revised burden estimates when the second comment period for this ICR is opened. However, as the universe and regulations have not changed, EPA does not anticipate any substantive changes to the burden figures.

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: January 22, 2009.

James E. Woolford,

Director, Office of Superfund Remediation and Technology Innovation.

[FR Doc. E9-2244 Filed 2-2-09; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-ORD-2008-0649; FRL-8770-5]

Board of Scientific Counselors (BOSC), Human Health Subcommittee Meetings—Fall 2008 and Winter 2009

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92-463, the Environmental Protection Agency, Office of Research and Development (ORD), gives notice of a meeting of the Board of Scientific Counselors (BOSC) Human Health Subcommittee.

DATES: A teleconference call will be held on Friday, February 27, 2009, from 12:30 p.m. to 1:30 p.m. EDT. The meeting may adjourn early if all business is finished. Requests for the draft agenda or for making oral presentations at the meetings will be accepted up to one business day before each meeting.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-ORD-2008-0649, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail:* Send comments by electronic mail (e-mail) to: ORD.Docket@epa.gov, Attention Docket ID No. EPA-HQ-ORD-2008-0649.
- *Fax:* Fax comments to: (202) 566-0224, Attention Docket ID No. EPA-HQ-ORD-2008-0649.
- *Mail:* Send comments by mail to: Board of Scientific Counselors (BOSC), Human Health Subcommittee Meetings—Fall 2008 and Winter 2009 Docket, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC, 20460, Attention Docket ID No. EPA-HQ-ORD-2008-0649.
- *Hand Delivery or Courier.* Deliver comments to: EPA Docket Center (EPA/DC), Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID No. EPA-HQ-ORD-2008-0649. Note: this is not a mailing address. Such deliveries are only accepted during the docket's normal hours of operation, and

special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-ORD-2008-0649. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at 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 www.regulations.gov or email. The www.regulations.gov Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Board of Scientific Counselors (BOSC), Human Health Subcommittee Meetings—Fall 2008 and Winter 2009 Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the ORD Docket is (202) 566-1752.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Officer via mail at: Virginia Houk, Mail Code B305-02, National Health and Environmental Effects Research Laboratory, Office of Research and Development, Environmental Protection Agency, Research Triangle Park, NC 27711; via phone/voice mail at: (919) 541-2815; via fax at: (919) 685-3250; or via e-mail at: hok.virginia@epa.gov.

SUPPLEMENTARY INFORMATION:

General Information

Any member of the public interested in receiving a draft BOSC agenda or making a presentation at the meeting may contact Virginia Houk, the Designated Federal Officer, via any of the contact methods listed in the **FOR FURTHER INFORMATION CONTACT** section above. In general, each individual making an oral presentation will be limited to a total of three minutes.

Proposed agenda items for the teleconference include, but are not limited to: Subcommittee discussion of the first draft of the report on ORD's Human Health Research Program. The meeting is open to the public.

Information on Services for Individuals with Disabilities: For information on access or services for individuals with disabilities, please contact Virginia Houk at (919) 541-2815 or hok.virginia@epa.gov. To request accommodation of a disability, please contact Virginia Houk, preferably at least ten days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: January 27, 2009.

Mary Ellen Radzikowski,
Acting Director, Office of Science Policy.
[FR Doc. E9-2254 Filed 2-2-09; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-8770-6]

National Advisory Council for Environmental Policy and Technology

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Committee Act, Pub. L. 92463, EPA gives notice of a public teleconference of the National Advisory Council for Environmental Policy and Technology (NACEPT). NACEPT provides advice to the EPA Administrator on a broad range of environmental policy, technology, and management issues. NACEPT

represents diverse interests from academia, industry, non-governmental organizations, and local, State, and tribal governments. EPA asked NACEPT to identify issues and challenges that EPA will face over the next 10 years, and the approaches the Agency might take to address those issues. The purpose of this teleconference is to discuss and approve draft NACEPT recommendations that address these issues. A copy of the agenda for the meeting will be posted at <http://www.epa.gov/ocem/nacept/cal-nacept.htm>.

DATES: NACEPT will hold a public teleconference on Wednesday, February 18, from 2 p.m.–3:30 p.m. Eastern Standard Time.

ADDRESSES: The meeting will be held in the U.S. EPA East Building, 1201 Constitution Ave., NW., Room 1132, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Sonia Altieri, Designated Federal Officer, altieri.sonia@epa.gov, (202) 564-0243, U.S. EPA, Office of Cooperative Environmental Management (1601M), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Requests to make oral comments or to provide written comments to NACEPT should be sent to Sonia Altieri, Designated Federal Officer, at the contact information above by Friday, February 13, 2009. The public is welcome to attend all portions of the meeting, but seating is limited and is allocated on a first-come, first-serve basis. Members of the public wishing to gain access to the conference room on the day of the meeting must contact Sonia Altieri at (202) 564-0243 or altieri.sonia@epa.gov by February 13, 2009.

Meeting Access: For information on access or services for individuals with disabilities, please contact Sonia Altieri at (202) 564-0243 or altieri.sonia@epa.gov. To request accommodation of a disability, please contact Sonia Altieri, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: January 29, 2009.

Sonia Altieri,
Designated Federal Officer.
[FR Doc. E9-2255 Filed 2-2-09; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY
[FRL-8770-4]
Science Advisory Board Staff Office; Notification of Public Meetings of the Science Advisory Board Radiation Advisory Committee Augmented for the Review of EPA's Radiogenic Cancer Risk Assessment
AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces two public meetings of the SAB Radiation Advisory Committee (RAC) augmented with additional experts to review the draft EPA document entitled "EPA Radiogenic Cancer Risk Models and Projections for the U.S. Population," December 2008.

DATES: The SAB Radiation Advisory Committee (RAC), augmented for the review of EPA's radiogenic cancer risk assessment, will hold a public teleconference on Friday, February 27, 2009 from 11 a.m. to 2 p.m. (Eastern Time) and a public face-to-face meeting on Monday, March 23 through Wednesday, March 25, 2009, commencing at 9 a.m. (Eastern Time). The final agendas for these public meetings will be posted on the SAB's Web site at <http://www.epa.gov/sab>.

ADDRESSES: The public teleconference meeting of February 27, 2009 will take place via telephone only. The March 23-25, 2009 meeting will take place in the Washington, DC area. The final meeting location will be posted on the SAB Web site.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain the call-in number and access code for the public teleconference meeting, or further information concerning the face-to-face public meeting may contact Dr. K. Jack Kooyoomjian, Designated Federal Officer (DFO), by mail at the EPA SAB Staff Office (1400F), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; by telephone at (202) 343-9984; by fax at (202) 233-0643; or by e-mail at kooyoomjian.jack@epa.gov. General information concerning the SAB can be found on the SAB Web site at <http://www.epa.gov/sab>.

SUPPLEMENTARY INFORMATION:

Background: Pursuant to the Federal Advisory Committee Act (FACA), Public Law 92-463, the SAB Staff Office hereby gives notice of one public teleconference meeting and one face-to-

face public meeting of the SAB Radiation Advisory Committee (RAC) augmented for review of EPA's radiogenic cancer risk assessment. The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice, consultation, and recommendations to the EPA Administrator on the technical basis for Agency positions and regulations. The augmented RAC will comply with the provisions of FACA and all appropriate SAB procedural policies.

The SAB Radiation Advisory Committee (RAC) augmented for review of EPA's radiogenic cancer risk assessment will provide advice to EPA on a topic of long-term interest to the Agency.

In 1994, the EPA published a report, entitled "Estimating Radiogenic Cancer Risks," which lays out the EPA's methodology for quantitatively estimating radiogenic cancer risks (<http://epa.gov/radiation/docs/assessment/402-r-93-076.pdf>). That document revised the methodology for EPA's estimation of cancer risks due to low-Linear-Energy-Transfer (LET) radiation exposures developed in light of information on the Japanese atomic bomb survivors. In 1999, a follow-on report made minor adjustments to the previous estimates and presented a partial analysis of the uncertainties in the numerical estimates (<http://epa.gov/radiation/docs/assessment/402-r-99-003.pdf>). Also in 1999 the Agency published Federal Guidance Report 13 (<http://epa.gov/radiation/docs/federal/402-r-99-001.pdf>) which utilized the previously published cancer risk models in conjunction with International Commission on Radiological Protection (ICRP) dosimetric models and the U.S.A. usage patterns, to obtain cancer risk estimates for over 800 radionuclides, and for several exposure pathways. These were later updated at http://www.epa.gov/radiation/federal/techdocs.html#cd_supplement. Prior to their publications, these three documents were first reviewed by the EPA's SAB.

In 2006, the National Research Council of the U.S. National Academy of Sciences (NAS/NRC) released "Health Risks from Exposure to Low Levels of Ionizing Radiation BEIR VII Phase 2," which primarily addresses cancer and genetic risks from low doses of low-LET radiation available at <http://newton.nap.edu/catalog/11340.html#toc>.

In August, 2006 EPA prepared the draft "White Paper: Modifying EPA Radiation Risk Models Based on BEIR VII" available at [\[paper8106.pdf\]\(#\), where the Agency proposed changes to the EPA's methodology for estimating radiogenic cancers, based on the contents of BEIR VII and some ancillary information. The Agency expected to adopt the models and methodology recommended in BEIR VII, but believed that certain modifications and expansions were desirable or necessary for the EPA's purposes. EPA's Office of Radiation and Indoor Air \(ORIA\) requested the SAB to review the Agency's draft White Paper and provide advice regarding the proposed approach to dose-response assessment of radionuclides. The EPA SAB/RAC prepared an advisory entitled "Advisory on Agency Draft White Paper entitled Modifying EPA Radiation Risk Models Based on BEIR VII" \(EPA-SAB-08-006\) dated January 31, 2008 \(see \[http://yosemite.epa.gov/sab/sabproduct.nsf/FD9963E56C66E4FF852573E200493359/\\\$File/EPA-SAB-08-006-unsigned.pdf\]\(http://yosemite.epa.gov/sab/sabproduct.nsf/FD9963E56C66E4FF852573E200493359/\$File/EPA-SAB-08-006-unsigned.pdf\)\).](http://epa.gov/radiation/docs/assessment/white-</p>
</div>
<div data-bbox=)

The EPA's Office of Radiation and Indoor Air (ORIA) has asked the SAB to review a draft document entitled "EPA Radiogenic Cancer Risk Models and Projections for the U.S. Population," dated December 2008. The document under preparation utilizes the advice contained in the NAS/NRC BEIR VII, Phase 2 report, as well as the SAB's recently completed advisory (EPA-SAB-08-006) described above. The specific charge questions will be provided with the completed draft document and will ask for comments from the SAB's augmented RAC on application of the overall approach to cancer risk estimates for radionuclides. The document to be reviewed will include the uncertainty estimates (which were a separate analysis in the 1999 document review by the SAB/RAC), as well as for specific applications of risk assessment calculations for many radionuclides. It is anticipated that there will likely be questions pertaining to the specific calculations of uncertainty and subsequent risk to the life tables, the lifetime attributable risk, and risks for special populations, as well as alternative models for calculating radiogenic cancer risk for specific applications and projections for the U.S. population.

Purpose of the Teleconference and Meeting: The purpose of the February 27, 2009 teleconference is to discuss EPA's charge to the augmented RAC and the agenda for the face-to-face meeting in March. The purpose of the March 23-25, 2009 meeting is to discuss responses to the charge questions and begin to draft the response.

Availability of Meeting Materials: A roster and biosketches of the augmented RAC, the meeting agenda, the charge to the SAB for review, and other supplemental material will be posted on the SAB Web site at <http://www.epa.gov/sab> prior to the teleconference and meeting.

The draft document, "EPA Radiogenic Cancer Risk Models and Projections for the U.S. Population," December 2008 is available at <http://epa.gov/radiation/assessment/pubs.html>.

Technical Contact: For questions and information concerning the EPA's draft document to be reviewed, please contact Dr. Mary E. Clark of the U.S. EPA, ORIA by telephone at (202) 343-9348, fax at (202) 243-2395, or e-mail at clark.marye@epa.gov.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for the SAB's augmented RAC to consider during the review process. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public teleconference will be limited to three minutes per speaker with no more than a total of fifteen minutes for all speakers. For face-to-face meetings, in general, individuals or groups requesting an oral presentation at a public face-to-face meeting will be limited to five minutes per speaker with no more than a total of one hour for all speakers. Interested parties who wish to be placed on the public speaker list should contact the DFO, contact information provided above, in writing via e-mail seven days prior to the teleconference meeting date. For the February 27, 2009 teleconference meeting, the deadline is Friday, February 20, 2009. For the March 23, 24, and 25, 2009 meeting, the deadline is Monday, March 16, 2009. *Written Statements:* Written statements should be received in the SAB Staff Office seven days prior to the teleconference meeting, so that the information may be made available to the SAB's augmented RAC for their consideration. For the Friday, February 27, 2009 teleconference meeting, the deadline is Friday, February 20; for the March 23, 24, and 25, 2009 meeting the deadline is Monday, March 16, 2009. Written statements should be supplied to the DFO in the following formats: one hard copy with original signature, and one electronic copy via e-mail to kooyoomjian.jack@epa.gov (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM-PC/Windows 98/2000/XP format). Submitters are asked to provide versions of each document submitted with and without

signatures, because the SAB Staff Office does not publish documents with signatures on its Web sites.

Meeting Accommodations: For information on access or services for individuals with disabilities, please contact the DFO, contact information provided above. To request accommodation of a disability, please contact the DFO, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: January 28, 2009.

Patricia Thomas,

Acting Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. E9-2249 Filed 2-2-09; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

AGENCY: Federal Election Commission.

DATE AND TIME: Tuesday, February 3, 2009, at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

PERSON TO CONTACT FOR INFORMATION:

Judith Ingram, Press Officer, Telephone: (202) 694-1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. E9-2089 Filed 2-2-09; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL MARITIME COMMISSION

Notice of a Meeting

Agency Holding the Meeting: Federal Maritime Commission.

Federal Register Citation of Previous Announcement: 74 FR 4746.

Previously Announced Time and Date of the Meeting: January 28, 2009-11:00 a.m.

Change: The Meeting for January 28, 2009 is canceled.

For Further Information Contact: Karen V. Gregory, Secretary, (202) 523-5725.

Karen V. Gregory,

Secretary.

[FR Doc. E9-2038 Filed 2-2-09; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 27, 2009.

A. Federal Reserve Bank of New York (Ivan Hurwitz, Bank Applications Officer) 33 Liberty Street, New York, New York 10045-0001:

1. *Deutsche Bank Aktiengesellschaft*, Frankfurt, Am Main, Germany, Deutsche Bank Trust Corporation, and Taunus Corporation, both of New York, New York, to acquire 100 percent of the voting shares of Deutsche Bank Trust Company, National Association, New York, New York.

B. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) P.O. Box 442, St. Louis, Missouri 63166-2034:

1. *Cabool State Bank Employee Stock Ownership Plan*, Cabool, Missouri, to acquire at least an additional 1 percent of the voting shares, for a total of 32.02 percent of the voting shares, of Cabool Bancshares, Inc., and thereby indirectly acquire additional voting shares of Cabool State Bank, both of Cabool, Missouri.

Board of Governors of the Federal Reserve System, January 29, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9-2233 Filed 2-2-09; 8:45 am]

BILLING CODE 6210-01-S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies That are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 27, 2009.

A. Federal Reserve Bank of New York (Ivan Hurwitz, Bank Applications Officer) 33 Liberty Street, New York, New York 10045-0001:

1. *Investors Bancorp, MHC and Investors Bancorp, Inc.*, both of Short

Hills, New Jersey, to acquire 100 percent of the voting shares of American Bancorp of New Jersey, and indirectly acquire voting shares of American Bank of New Jersey, both of Bloomfield, New Jersey, and thereby engage in operating a savings association, pursuant to section 225.28(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, January 29, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9-2234 Filed 2-2-09; 8:45 am]

BILLING CODE 6210-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-09-0743]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404-639-5960 or send comments to Maryam I. Daneshvar, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS D-74, Atlanta, GA 30333 or send an e-mail to omb@cdc.gov.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Assessment and Monitoring of Breastfeeding-Related Maternity Care Practices in Intra-partum Care Facilities in the United States and Territories

(OMB Control No. 0920-0743, Exp. 7/31/2009)—Revision—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Substantial evidence demonstrates the health benefits of breastfeeding. Breastfeeding mothers have lower risks of breast and ovarian cancers and type 2 diabetes, and breastfeeding better protects infants against infections, chronic diseases like diabetes and obesity, and even childhood leukemia and sudden infant death syndrome (SIDS). However, the groups that are at higher risk for diabetes, obesity, and poor health overall persistently have the lowest breastfeeding rates.

Health professionals recommend at least 12 months of breastfeeding, and Healthy People 2010 establishes specific national breastfeeding goals. In addition to increasing overall rates, a significant public health priority in the U.S. is to reduce variation in breastfeeding rates across population subgroups. For example, in 2005, nearly three-quarters of white mothers started breastfeeding, but only about half of black mothers did so.

The health care system is one of the most important and effective settings to improve breastfeeding. In 2007, CDC conducted the first national survey of Maternity Practices in Infant Nutrition and Care (known as the mPINC Survey) in health care facilities (hospitals and free-standing childbirth centers). This survey was designed to provide baseline information and to be repeated again in 2009. It inquired about patient education and support for breastfeeding throughout the maternity stay as well as staff training and maternity care policies.

Prior to the fielding of the 2009 iteration, CDC has been requested to provide a report to OMB on the results of the 2007 collection. In this report, CDC will provide these results by geographic and demographic characteristics and a summary of activities that resulted from the survey.

Because the 2009 mPINC survey repeats the prior iteration, the methodology, content, and administration of it will match those used before. The census design does not employ sampling methods. Facilities are identified by using the American Association of Birth Centers (AABC) and the American Hospital Association (AHA) Annual Survey of Hospitals. In addition to all facilities that participated in 2007, the 2009 survey will include those that were invited but did not

participate in 2007 and any that are new since then. All birth centers and hospitals with ≥1 registered maternity bed will be screened via a brief phone call to assess their eligibility, identify additional locations, and identify the appropriate point of contact. The extremely high response rate to the 2007 mPINC survey of 82 percent indicates that the methodology is appropriate and

also reflects unusually high interest among the study population.

As with the initial survey, a major goal of the 2009 follow-up survey is to be fully responsive to their needs for information and technical assistance. CDC will provide direct feedback to respondents in a customized benchmark report of their results and identify and document progress since 2007 on their

quality improvement efforts. National and state reports will use de-identified data to describe incremental changes in practices and care processes over time at the facility, state, and national levels.

Participation in the survey is voluntary, and responses may be submitted by mail or through a web-based system. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
AHA and AABC Facilities with either ≥1 birth or ≥1 registered maternity bed.	Screening call	4,089	1	5/60	341
	2009 mPINC	3,281	1	30/60	1,641
Total	1,982

Dated: January 27, 2009.
Maryam I. Daneshvar,
Acting Reports Clearance Officer, Centers for Disease Control and Prevention.
 [FR Doc. E9-2260 Filed 2-2-09; 8:45 am]
BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: State Council on Developmental Disabilities Program Performance Report.

OMB No.: 0980-0172.

Description: A Developmental Disabilities Council Program Performance Report is required by federal statute. Each State

Developmental Disabilities Council must submit an annual report for the preceding fiscal year of activities and accomplishments. Information provided in the Program Performance Report will be used (1) in the preparation of the biennial Report to the President, the Congress, and the National Council on Disabilities and (2) to provide a national perspective on program accomplishments and continuing challenges. This information will also be used to comply with requirements in the Government Performance and Results Act of 1993.

Respondents: State Governments.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
State Council on Developmental Disabilities Program Performance Report ..	55	1	138	7,590

Estimated Total Annual Burden Hours: 7,590.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, *Attn:* ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: infocollection@acf.hhs.gov.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of

having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, *Fax:* 202-395-6974, *Attn:* Desk Officer for the Administration for Children and Families.

Dated: January 26, 2009.
Janean Chambers,
Reports Clearance, Officer.
 [FR Doc. E9-2013 Filed 2-2-09; 8:45 am]
BILLING CODE 4184-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other

reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

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 Initial Review Group, Digestive Diseases and Nutrition C Subcommittee.

Date: March 4–5, 2009.

Open: March 4, 2009, 8 a.m. to 8:30 a.m.

Agenda: To review procedures and discuss policy.

Place: Embassy Suites Downtown Washington, DC, 1250 22nd Street, NW., Washington, DC 20037.

Closed: March 4, 2009, 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Downtown Washington, DC, 1250 22nd Street, NW., Washington, DC 20037.

Closed: March 5, 2009, 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Downtown Washington, DC, 1250 22nd Street, NW., Washington, DC 20037.

Contact Person: Dan E. Matsumoto, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 749, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8894, matsumotod@extra.niddk.nih.gov.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group, Kidney, Urologic and Hematologic Diseases D Subcommittee.

Date: March 4–5, 2009.

Open: March 4, 2009, 8 a.m. to 8:30 a.m.

Agenda: To review procedures and discuss policy.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Closed: March 4, 2009, 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Closed: March 5, 2009, 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Barbara A. Woynarowska, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 754, 6707 Democracy Boulevard, Bethesda, MD 20892–

5452, (301) 402–7172, woynarowskab@niddk.nih.gov.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group, Diabetes, Endocrinology and Metabolic Diseases B Subcommittee.

Date: March 4–5, 2009.

Open: March 4, 2009, 8:00 a.m. to 8:30 a.m.

Agenda: To review procedures and discuss policy.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Closed: March 4, 2009, 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Closed: March 5, 2009, 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: John F. Connaughton, PhD, Chief, Chartered Committees Section, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7797, connaughtonj@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: January 29, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–2269 Filed 2–2–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), 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 on Aging Special Emphasis Panel, ITP Review Meeting.

Date: February 23, 2009.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Room 2C212, Bethesda, MD 20814. (Telephone Conference Call)

Contact Person: Bitu Nakhai, PhD, Scientific Review Officer, Scientific Review Branch, National Institute on Aging, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7701, nakhaib@nia.nih.gov.

Name of Committee: National Institute on Aging Special Emphasis Panel, Centers on the Demography and Economics of Aging.

Date: March 2–3, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Alfonso R. Latoni, PhD, Deputy Chief and Scientific Review Officer, Scientific Review Branch, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Room 2C218, Bethesda, MD 20892, 301–402–7702, latonia@nia.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: January 27, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–2275 Filed 2–2–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies Federal agencies of the laboratories currently certified to meet the standards of Subpart C of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal**

Register on June 9, 1994 (59 FR 29908), on September 30, 1997 (62 FR 51118), and on April 13, 2004 (69 FR 19644).

A notice listing all currently certified laboratories is published in the **Federal Register** during the first week of each month. If any laboratory's certification is suspended or revoked, the laboratory will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end, and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at <http://www.workplace.samhsa.gov> and <http://www.drugfreeworkplace.gov>.

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh, Division of Workplace Programs, SAMHSA/CSAP, Room 2-1042, One Choke Cherry Road, Rockville, Maryland 20857; 240-276-2600 (voice), 240-276-2610 (fax).

SUPPLEMENTARY INFORMATION: The Mandatory Guidelines were developed in accordance with Executive Order 12564 and section 503 of Public Law 100-71. Subpart C of the Mandatory Guidelines, "Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies," sets strict standards that laboratories must meet in order to conduct drug and specimen validity tests on urine specimens for Federal agencies. To become certified, an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A laboratory must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Mandatory Guidelines dated April 13, 2004 (69 FR 19644), the following laboratories meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414-328-7840/800-877-7016 (Formerly: Bayshore Clinical Laboratory).

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 585-429-2264.

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901-794-5770/888-290-1150.

Aegis Sciences Corporation, 345 Hill Ave., Nashville, TN 37210, 615-255-2400 (Formerly: Aegis Analytical Laboratories, Inc.).

Baptist Medical Center-Toxicology Laboratory, 9601 I-630, Exit 7, Little Rock, AR 72205-7299, 501-202-2783 (Formerly: Forensic Toxicology Laboratory Baptist Medical Center).

Clinical Reference Lab, 8433 Quivira Road, Lenexa, KS 66215-2802, 800-445-6917.

Diagnostic Services, Inc., dba DSI, 12700 Westlinks Drive, Fort Myers, FL 33913, 239-561-8200/800-735-5416.

Doctors Laboratory, Inc., 2906 Julia Drive, Valdosta, GA 31602, 229-671-2281.

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Road, Warminster, PA 18974, 215-674-9310.

DynaLIFE Dx*, 10150-102 St., Suite 200, Edmonton, Alberta, Canada T5J 5E2, 780-451-3702/800-661-9876 (Formerly: Dynacare Kasper Medical Laboratories).

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662-236-2609.

Gamma-Dynacare Medical Laboratories*, A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519-679-1630.

Kroll Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504-361-8989/800-433-3823 (Formerly: Laboratory Specialists, Inc.).

Kroll Laboratory Specialists, Inc., 450 Southlake Blvd., Richmond, VA 23236, 804-378-9130 (Formerly: Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.).

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713-856-8288/800-800-2387.

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908-526-2400/800-437-4986 (Formerly: Roche Biomedical Laboratories, Inc.).

Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919-572-6900/800-833-3984 (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem

Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group). Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866-827-8042/800-233-6339 (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center).

LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913-888-3927/800-873-8845 (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.).

Maxxam Analytics*, 6740 Campobello Road, Mississauga, ON, Canada L5N 2L8, 905-817-5700 (Formerly: Maxxam Analytics Inc., NOVAMANN (Ontario), Inc.).

MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 651-636-7466/800-832-3244.

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503-413-5295/800-950-5295.

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612-725-2088.

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661-322-4250/800-350-3515.

One Source Toxicology Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504, 888-747-3774 (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory).

Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800-328-6942 (Formerly: Centinela Hospital Airport Toxicology Laboratory).

Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509-755-8991/800-541-7891x7.

Phamatech, Inc., 10151 Barnes Canyon Road, San Diego, CA 92121, 858-643-5555.

Quest Diagnostics Incorporated, 3175 Presidential Dr., Atlanta, GA 30340, 770-452-1590/800-729-6432 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610-631-4600/877-642-2216 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 7600 Tyrone Ave., Van Nuys, CA 91405,

866-370-6699/818-989-2521
(Formerly: SmithKline Beecham
Clinical Laboratories).

S.E.D. Medical Laboratories, 5601 Office
Blvd., Albuquerque, NM 87109, 505-
727-6300/800-999-5227.

South Bend Medical Foundation, Inc.,
530 N. Lafayette Blvd., South Bend,
IN 46601, 574-234-4176 x276.

Southwest Laboratories, 4645 E. Cotton
Center Boulevard, Suite 177, Phoenix,
AZ 85040, 602-438-8507/800-279-
0027.

Sparrow Health System, Toxicology
Testing Center, St. Lawrence Campus,
1210 W. Saginaw, Lansing, MI 48915,
517-364-7400 (Formerly: St.
Lawrence Hospital & Healthcare
System).

St. Anthony Hospital Toxicology
Laboratory, 1000 N. Lee St.,
Oklahoma City, OK 73101, 405-272-
7052.

Toxicology & Drug Monitoring
Laboratory, University of Missouri
Hospital & Clinics, 301 Business Loop
70 West, Suite 208, Columbia, MO
65203, 573-882-1273.

Toxicology Testing Service, Inc., 5426
N.W. 79th Ave., Miami, FL 33166,
305-593-2260.

U.S. Army Forensic Toxicology Drug
Testing Laboratory, 2490 Wilson St.,
Fort George G. Meade, MD 20755-
5235, 301-677-7085.

Elaine Parry,

*Director, Office of Program Services,
SAMHSA.*

[FR Doc. E9-2306 Filed 2-2-09; 8:45 am]

BILLING CODE 4160-20-P

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective July 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on April 13, 2004 (69 FR 19644). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R9-R-2009-N0025; 93261-99CS-0000-4A]

**Proposed Information Collection;
Survey of National Wildlife Refuge
Visitors Service Refuge Visitors**

AGENCY: Fish and Wildlife Service,
Interior.

ACTION: Notice; request for comments.

SUMMARY: We (Fish and Wildlife Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. 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.

DATES: You must submit comments on or before April 6, 2009.

ADDRESSES: Send your comments on the IC to Hope Grey, Information Collection Clearance Officer, Fish and Wildlife Service, MS 222-ARLSQ, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); 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:

I. Abstract

We have contracted with the U.S. Geological Survey (USGS) to conduct a survey of national wildlife refuge visitors so that we can better understand their recreational, educational, and information experiences. The Policy Analysis and Science Assistance Branch of the USGS will conduct the survey onsite at approximately 75 national wildlife refuges nationwide. Respondents will have the option to return the survey by mail or to complete it online.

We will use this survey to measure visitor satisfaction with current visitor services and facilities and their desire for future services and facilities. Information from this survey will provide refuge managers, planners, and visitor services professionals with scientifically sound data that can be used to:

- (1) Prepare conservation planning documents,
- (2) Improve the design of visitor facilities,
- (3) Tailor visitor services and facilities to match visitor interests and needs,
- (4) Better protect refuge resources by combining this data with biological data, and
- (5) Understand the economic impact of visitors to the local community. Additionally, this survey can target public access and transportation planning issues related to wildlife-oriented recreational opportunities such as auto tour routes, trails, parking lots, and roads.

II. Data

OMB Control Number: None. This is a new collection.

Title: Survey of National Wildlife Refuge Visitors.

Service Form Number(s): None.

Type of Request: New.

Affected Public: Visitors to national wildlife refuges.

Respondent's Obligation: Voluntary.

Frequency of Collection: Biannual.

Estimated Annual Number of

Respondents: 15,000 (approximately 200 visitors at 75 national wildlife refuges).

Estimated Total Annual Responses: 15,000.

Estimated Time per Response: 20 minutes.

Estimated Total Annual Burden Hours: 5,000.

III. Request for Comments

We invite comments concerning this IC on:

- (1) whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- (2) the accuracy of our estimate of the burden for this 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.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment

to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: January 22, 2009

Hope Grey,

*Information Collection Clearance Officer,
Fish and Wildlife Service.*

FR Doc. E9-2146 Filed 2-2-09; 8:45 am

BILLING CODE 4310-55-S

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R9-MB-2009-N0005; 91100-3740-GRNT 7C]

Meeting Announcement: North American Wetlands Conservation Council

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The North American Wetlands Conservation Council (Council) will meet to select North American Wetlands Conservation Act (NAWCA) grant proposals for recommendation to the Migratory Bird Conservation Commission (Commission). This meeting is open to the public, and interested persons may present oral or written statements.

DATES: *Council Meeting:* March 16, 2009, 1-3 p.m.

ADDRESSES: The meeting will be held at the Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Mike Johnson, Council Coordinator, by phone at (703) 358-1784; by e-mail at dbhc@fws.gov; or by U.S. mail at U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Mail Stop MBSP 4501-4075, Arlington, VA 22203.

SUPPLEMENTARY INFORMATION: In accordance with NAWCA (Pub. L. 101-233, 103 Stat. 1968, December 13, 1989, as amended), the State-private-Federal Council meets to consider wetland acquisition, restoration, enhancement, and management projects for recommendation to, and final funding approval by, the Commission.

If you are interested in presenting information at the public meeting, contact the Council Coordinator no later than March 2, 2009.

Project proposal due dates, application instructions, and eligibility requirements are available on the NAWCA Web site at <http://www.fws.gov/birdhabitat/Grants/NAWCA/Standard/US/Overview.shtm>.

Proposals require a minimum of 50 percent non-Federal matching funds. The Council will consider Canadian and U.S. small grant proposals at the meeting. The tentative date for the Commission meeting is June 10, 2009.

Dated: January 13, 2009.

Paul Schmidt,

Assistant Director—Migratory Birds.

[FR Doc. E9-2085 Filed 2-2-09; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO-260-09-1060-XQ-24 1A]

Wild Horse and Burro Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Announcement of Meeting.

SUMMARY: The Bureau of Land Management (BLM) announces that the Wild Horse and Burro Advisory Board will conduct a meeting on matters pertaining to management and protection of wild, free-roaming horses and burros on the Nation's public lands.

DATES: The Advisory Board will meet Monday, March 2, 2009, from 8 a.m. to 5 p.m., local time. This will be a one day meeting.

ADDRESSES: The Advisory Board will meet in Reno, Nevada at the Silver Legacy Resort Casino, in the Reno Ballroom, 50 East Fourth Street, Reno, Nevada 89501. The Silver Legacy's address is 407 North Virginia Street, Reno, Nevada 89501. Their phone number is 1-800-687-7733.

Written comments pertaining to the Advisory Board meeting should be sent to: Bureau of Land Management, National Wild Horse and Burro Program, WO-260, Attention: Ramona DeLorme, 1340 Financial Boulevard, Reno, Nevada 89502-7147. Submit written comments pertaining to the Advisory Board meeting no later than close of business February 25, 2009. See the **SUPPLEMENTARY INFORMATION** section for electronic access and filing address.

FOR FURTHER INFORMATION CONTACT: Ramona DeLorme, Wild Horse and Burro Administrative Assistant, at 775-861-6583. Individuals who use a telecommunications device for the deaf (TDD) may reach *Ms. DeLorme* at any time by calling the Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

I. Public Meeting

Under the authority of 43 CFR part 1784, the Wild Horse and Burro Advisory Board advises the Secretary of the Interior, the Director of the BLM, the Secretary of Agriculture, and the Chief of the Forest Service, on matters pertaining to management and protection of wild, free-roaming horses and burros on the Nation's public lands. The tentative agenda for the meeting is:

Monday, March 2, 2009 (8 a.m.-5 p.m.)

8 a.m.—Call to Order & Introductions:
8:15 a.m.—Old Business:

Approval of November 2008 Minutes
Update Pending Litigation

8:45 a.m.—Program Updates:

Gathers
Adoptions
Facilities
Forest Service Update

Break (9:30 a.m.—9:45 a.m.)

9:45 a.m.—Program Updates

(continued):

Program Accomplishments
BLM Response to Advisory Board
Recommendations
Lunch (11:45 a.m.—1 p.m.)

1 p.m.—New Business:

Break (2:45 p.m.—3 p.m.)

3 p.m.—Public Comments

4 p.m.—Board Recommendations

4:45 p.m.—Recap/Summary/Next
Meeting/Date/Site

5 p.m.—Adjourn

The meeting site is accessible to individuals with disabilities. An individual with a disability needing an auxiliary aid or service to participate in the meeting, such as an interpreting service, assistive listening device, or materials in an alternate format, must notify the person listed under **FOR FURTHER INFORMATION CONTACT** two weeks before the scheduled meeting date. Although the BLM will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

The Federal Advisory Committee Management Regulations [41 CFR 101-6.1015(b),] require BLM to publish in the **Federal Register** notice of a meeting 15 days prior to the meeting date.

II. Public Comment Procedures

Members of the public may make oral statements to the Advisory Board on March 2, 2009 at the appropriate point in the agenda. This opportunity is anticipated to occur at 3 p.m., local time. Persons wishing to make statements should register with the BLM by noon on March 2, 2009 at the meeting location. Depending on the number of speakers, the Advisory Board

may limit the length of presentations. At previous meetings, presentations have been limited to three minutes in length. Speakers should address the specific wild horse and burro-related topics listed on the agenda. Speakers must submit a written copy of their statement to the address listed in the **ADDRESSES** section or bring a written copy to the meeting.

Participation in the Advisory Board meeting is not a prerequisite for submission of written comments. The BLM invites written comments from all interested parties. Your written comments should be specific and explain the reason for any recommendation. The BLM appreciates any and all comments, but those most useful and likely to influence decisions on management and protection of wild horses and burros are those that are either supported by quantitative information or studies or those that include citations to and analysis of applicable laws and regulations. Except for comments provided in electronic format, speakers should submit two copies of their written comments where feasible. The BLM will not necessarily consider comments received after the time indicated under the **DATES** section or at locations other than that listed in the **ADDRESSES** section.

In the event there is a request under the Freedom of Information Act (FOIA) for a copy of your comments, the BLM will make them available in their entirety, including your name and address. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. The BLM will release all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, in their entirety, including names and addresses.

Electronic Access and Filing Address

Speakers may transmit comments electronically via the Internet to: ramona_delorme@blm.gov. Please include the identifier "WH&B" in the subject of your message and your name and address in the body of your message.

Dated: January 27, 2009.

Edwin L. Roberson,

Assistant Director, Renewable Resources and Planning.

[FR Doc. E9-2208 Filed 2-2-09; 8:45 am]

BILLING CODE 4310-84-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-61509; LLOR014000 L58740000 EU0000 LXSS056H0000; OR-60795; LLOR014000 L58740000 EU0000 LXSS057H0000; OR-62015; LLOR014000 L58740000 EU0000 LXSS058H0000; HAG-09-0046]

Notice of Realty Action; Proposed Sale of Public Lands, Oregon

AGENCY: Bureau of Land Management (BLM), Lakeview District, Oregon.

ACTION: Notice of Realty Action.

SUMMARY: This notice announces the sale of four parcels of public land totaling 242.60 acres in Klamath County, Oregon, by modified competitive and direct sale procedures and at not less than appraised market value. The parcels proposed for sale were identified as suitable for disposal in the Klamath Falls Resource Area Resource Management Plan dated June 2, 1995, and as replaced by the revised Klamath Falls Resource Area Resource Management Plan, dated December 30, 2008.

DATES: Submit comments on or before March 20, 2009.

ADDRESSES: Address all written comments to Donald J. Holmstrom, Field Manager, Klamath Falls Resource Area Office, 2795 Anderson Ave. Building 25, Klamath Falls, Oregon 97603. Comments expressed verbally or in electronic format will not be accepted.

FOR FURTHER INFORMATION CONTACT: Mike Bechdolt, Assistant Field Manager, Klamath Falls Resource Area, Lakeview District, Oregon, at (541) 885-4118 or Dan Stewardson, Realty Specialist, Bureau of Land Management, Lakeview District Office, Oregon, at (541) 947-6115.

SUPPLEMENTARY INFORMATION: The following described public land in Klamath County, Oregon, has been examined and found suitable for sale under Sections 203 and 209 of the Federal Land Policy Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713 and 1719). The Klamath Falls Resource Area, Bureau of Land Management is proposing three land sales (four parcels) and is identified as follows:

Parcel I: Happy Hollow Land Sale, (OR-61509)—120 acres. This parcel will be sold by Modified Competitive sealed bid sale at not less than the appraised market value of \$29,700.

Willamette Meridian, Oregon

T. 38 S., R.11 E.

Sec. 17, NW $\frac{1}{4}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$;

Parcel II: East Stukel Land Sale, (OR-62015)—120 acres. This parcel will be sold by Modified Competitive sealed bid sale at not less than the appraised market value of \$17,000.

Willamette Meridian, Oregon

T. 40 S., R.11E

Sec. 9, N $\frac{1}{2}$ NW $\frac{1}{4}$ and SE $\frac{1}{4}$ NW $\frac{1}{4}$;

Parcel III: Nancy Charley Trust Land Sale, (OR-60795)—2.60 acres. This parcel will be sold by direct sale upon acceptance of the direct sale offer and not less than 60-days from February 3, 2009 to resolve inadvertent unauthorized use and occupancy at not less than the appraised market value of \$5,932.

Willamette Meridian, Oregon

T. 38 S., R.5 E.

Sec. 13, Lot 9.

In accordance with 43 CFR 2711.3-3(a) (5), direct sale procedures are appropriate to resolve inadvertent unauthorized use or occupancy of the land. Corral facilities, a barn and a shed encroach on public land. These improvements were constructed by the proponent over fifty years ago.

Federal law requires that public land may be sold only to either (1) Citizens of the United States 18 years of age or older; (2) corporations subject to the laws of any State or of the United States; (3) other entities such as an association or a partnership capable of holding land or an interest therein under the laws of the State within which the land is located; or (4) a State, State instrumentality or political subdivision authorized to hold property. Certifications and evidence to this effect will be required of the purchaser prior to issuance of a patent.

The following rights, reservations, and conditions will be included in the patents that may be issued as to each of the above described parcels of land:

1. A reservation to the United States for a right-of-way for ditches and canals constructed by the authority of the United States. Act of August 30, 1890 (43 U.S.C. 945).

2. A reservation to the United States for all oil, gas and geothermal resources in the land in accordance with Section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719).

3. The patent will include a notice and indemnification statement under

the Comprehensive Environmental Response, Compensation and Liability Act. All parcels are subject to the requirements of section 120(h) (42 U.S.C. Section 9620) holding the United States harmless from any release of hazardous materials that may have occurred as a result of the unauthorized use of the property by other parties. No Warranty of any kind, express or implied, is given by the United States as to the title, physical condition or potential uses of the parcel of land proposed for sale.

4. All the parcels are subject to valid existing rights.

The mineral interests being offered for conveyance have no known mineral value. A successful bid constitutes an application for conveyance of the mineral interest. In addition to the full purchase price, a nonrefundable filing fee of \$50 will be required by the successful bidder for purchase of the mineral interests to be conveyed simultaneously with the sale of the land with the exception of all leasable minerals, including oil, gas and geothermal interests, which will be reserved to the United States in accordance with Section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719).

On February 3, 2009, the above described lands will be segregated from appropriation under the public land laws, including the mining laws, except the sale provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719). Until completion of the sales, the Bureau of Land Management is no longer accepting land use applications affecting the identified public lands, except applications for the amendment of previously filed right-of-way applications or existing authorizations to increase the term of existing grants in accordance with 43 CFR 2807.15 and 2886.15. The effect of segregation will terminate upon issuance of a patent, upon publication in the **Federal Register** of a termination of the segregation, or March 3, 2011, unless extended by the Bureau of Land Management, State Director, in accordance with 43 CFR 2711.1-2(d) prior to the termination date.

All bids must be submitted to the Klamath Falls Resource Area Office, 2795 Anderson Ave., Building #25, Klamath Falls, Oregon 97603, by no later than 4:30 p.m. PST, on April 8, 2009. The bids for Parcels I and II will be opened at 10 a.m. PST, on April 22, 2009, at the Klamath Falls Resource Area Office, 2795 Anderson Ave., Building #25, Klamath Falls, Oregon 97603.

Based upon receipt of valid bids, the Bureau of Land Management will offer the adjacent landowner the right to meet the highest bid and purchase the lands at an amount equal to the highest bid price, which must be not less than the market value as determined by the Secretary. If the adjacent landowner declines this offer, the bidder with the highest sealed bid price will be declared the high bidder. The outside of the bid envelope must be clearly marked with either "BLM Land Sale Parcel I—OR—61509" or "BLM Land Sale Parcel II—OR—62015," and contain a statement showing the total amount of the bid, the bid opening date and the name, mailing address, and phone number of the entity making the bid. Bids must not be less than the appraised market value. Each sealed bid shall be accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the DOI-Bureau of Land Management, for not less than 20 percent of the amount of the bid. The successful bidder shall submit the remainder of the full bid price prior to the expiration of 180 days from the date of the sale. The successful bidder may exercise the option to pay in full at any time during this period. Failure to submit the full bid price, prior to the 180th day following the sale shall result in cancellation of the sale and the deposit shall be forfeited.

Public Comments: On or before March 20, 2009, any person may submit written comments regarding the proposed sales to the Bureau of Land Management Klamath Falls Resource Area Office, 2795 Anderson Ave., Building #25, Klamath Falls, Oregon 97603.

Comments, including names, street addresses, and other contact information of respondents, will be available for public review. Individual respondents may request confidentiality. If you wish to request that the Bureau of Land Management consider withholding your name, street address, and other contact information (such as Internet address, FAX or phone number) from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. The Bureau of Land Management will honor requests for confidentiality on a case-by-case basis to the extent allowed by law. The Bureau of Land Management will make available for public inspection in their entirety all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses.

Detailed information concerning these land sales, including the appraisals, planning and environmental documents, and mineral report is available for review at the Bureau of Land Management, Klamath Falls Resource Area, Bureau of Land Management, 2795 Anderson Ave., Building 25, Klamath Falls, Oregon 97603, during business hours. Inquires may also be directed to Mike Becholdt, (541) 885-4118, Assistant Field Manager, Klamath Falls Field Office, at the above address or Dan Stewardson, Realty Specialist, Bureau of Land Management, Lakeview District Office, (541) 947-6115. Objections will be reviewed by the Bureau of Land Management Lakeview District Manager who may sustain, vacate, or modify this realty action. In the absence of any objections, this proposal will become the final determination of the Department of the Interior.

Authority: 43 CFR 2711.1-2.

Dated: January 15, 2009.

Donald J. Holmstrom,
Field Manager, Klamath Falls Resource Area.
[FR Doc. E9-2262 Filed 2-2-09; 8:45 am]
BILLING CODE 4310-33-P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

[Docket No. MMS-2009-OMM-0001]

MMS Information Collection Activity: 1010-0137, Historical Well Data Cleanup, Extension of a Collection; Comment Request; Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of extension of an information collection (1010-0137).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), MMS is inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) concerns the paperwork requirements in a Notice to Lessees and Operators (NTL) discussed below.

DATES: Submit written comments by April 6, 2009.

ADDRESSES: You may submit comments by either of the following methods listed below.

- Electronically: go to <http://www.regulations.gov>. Under the tab "More Search Options," click Advanced

Docket Search, then select "Minerals Management Service" from the agency drop-down menu, then click "submit." In the Docket ID column, select MMS-2009-OMM-0001 to submit public comments and to view supporting and related materials. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's "User Tips" link. The MMS will post all comments.

- Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Attention: Cheryl Blundon; 381 Elden Street, MS-4024; Herndon, Virginia 20170-4817. Please reference "Information Collection 1010-0137" in your subject line and mark your message for return receipt. Include your name and return address in your message text.

FOR FURTHER INFORMATION CONTACT:

Cheryl Blundon, Regulations and Standards Branch at (703) 787-1607. You may also contact Cheryl Blundon to obtain a copy, at no cost, of the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: Historical Well Data Cleanup; Wells Without Assigned MMS API Numbers—NTL.

OMB Control Number: 1010-0137.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior (Secretary) to prescribe rules and regulations to administer leasing of the OCS. Such rules and regulations will apply to all operations conducted under a lease. Operations on the OCS must preserve, protect, and develop oil and natural gas resources in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; to balance orderly energy resource development with protection of human, marine, and coastal environments; to ensure the public a fair and equitable return on the resources of the OCS; and to preserve and maintain free enterprise competition.

The OCSLA at 43 U.S.C. 1332(6) states that "operations in the [O]uter Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health."

The MMS's Historical Well Data Cleanup requests operators to supply missing data or corrected data for wells drilled prior to January 2000 that do not have an assigned API number. This notice announces our intention to request a 3-year extension for this information collection.

The information we collect under this NTL, is missing data for wellbores that MMS has not assigned API numbers and other well data discovered as missing while completing the well database cleanup. We are not able to manage and utilize data from drilling operations accurately without the information for the missing wells. We will use the information to identify other well data (e.g., logs, surveys, tests) missing from our records, geologically map existing MMS data to the correct wellbore/location, and correctly exchange information with the operators and industry. Our geoscientists can use the information to evaluate resources for lease sales for fair market value. With respect to safety concerns, we believe that there may be anywhere from 3,000 to 6,000 unidentified completed and abandoned wellbores (bypasses and sidetracks), some of which may contain stuck drill pipe or other materials. In approving permits and other operations in an area, it is important for us to know what may be adjacent to or near the vicinity of the activity we are approving to minimize the risk of blowouts, loss of well control, and endangerment to life, health, and the environment. This is particularly important as, over the years, the number of wells drilled constantly increases, thereby increasing the risk to adjacent activities if operators are not aware of what might be in the area.

We will protect information respondents submit that is considered proprietary under the Freedom of Information Act (5 U.S.C. 552), its implementing regulations (43 CFR part 2), and 30 CFR 250.197, Data and information to be made available to the public or for limited inspection. No items of a sensitive nature are collected. Responses are mandatory.

Frequency: On occasion.

Estimated Number and Description of Respondents: Approximately 130 Federal OCS oil, gas, and sulphur lessees.

Estimated Reporting and Recordkeeping "Hour" Burden: The currently approved annual reporting burden for this collection is 15,000 hours for approximately 6,000 wells, based on:

(1) 0.5 hours to locate and copy a summary of drilling operations (e.g., scout tickets) for each well.

(2) 2 hours to retrieve and analyze each well file and retrieve other missing data.

There are no recordkeeping requirements.

Estimated Reporting and Recordkeeping "Non-Hour Cost"

Burden: We have identified no paperwork non-hour cost burdens for this collection.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) requires each agency " * * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * * ". Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Agencies must also estimate the "non-hour cost" burdens to respondents or recordkeepers resulting from the collection of information. Therefore, if you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information, monitoring, and record storage facilities. You should not include estimates for equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of

customary and usual business or private practices.

We will summarize written responses to this notice and address them in our submission for OMB approval. As a result of your comments, we will make any necessary adjustments to the burden in our submission to OMB.

Public Comment Procedures: Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

MMS Information Collection Clearance Officer: Arlene Bajusz (202) 208-7744.

Dated: January 27, 2009.

E.P. Danenberger,
Chief, Office of Offshore Regulatory Programs.
[FR Doc. E9-2265 Filed 2-2-09; 8:45 am]

BILLING CODE 4310-MR-P

DEPARTMENT OF THE INTERIOR

National Park Service

60-Day Notice of Intention To Request Clearance of Collection of Information; Opportunity for Public Comment

AGENCY: Department of the Interior, National Park Service.

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 and 5 CFR Part 1320, Reporting and Record Keeping Requirements, the National Park Service (NPS) invites public comments on an extension of a currently approved collection of information (OMB #1024-0009).

DATES: Public comments on this Information Collection Request (ICR) will be accepted on or before April 6, 2009.

ADDRESSES: Send comments to: Michael J. Auer, NPS Heritage Preservation Services, 1849 C St., NW (2255), Washington, DC 20240; or via phone at 202/354-2031; or via fax at 202/371-1666; or via e-mail at michaelauer@nps.gov. Also, you may send comments to Leonard E. Stowe, NPS Information Collection Clearance Officer, 1201 Eye St., NW. (2605), Washington, DC 20005; or via e-mail at leonardstowe@nps.gov. All responses to

the Notice will be summarized and included in the request for the Office of Management and Budget (OMB) approval. All comments will become a matter of public record.

TO REQUEST A DRAFT OF PROPOSED COLLECTION OF INFORMATION CONTACT: Michael J. Auer, NPS Heritage Preservation Services, 1849 C St., NW (2255), Washington, DC. 20005; or via phone at 202/354-2031; or via fax at 202/371-1666; or via e-mail at michaelauer@nps.gov. You are entitled to a copy of the entire ICR package free of charge once the package is submitted to OMB for review. You can access this ICR at <http://www.reginfo.gov/public/>.

SUPPLEMENTARY INFORMATION: Title: Historic Preservation Certification Application—36 CFR Part 67 Form(s): 10-168 (Evaluation of Significance); 10-168a (Description of Rehabilitation); 10-168b (Continuation/Amendment Sheet); 10-168c (Certification of Completed Work).

OMB Control Number: 1024-0009.

Expiration Date: 9/30/2009.

Type of Request: Extension of a currently approved collection of information.

Description of Need: Section 47 of the Internal Revenue Code requires that the Secretary of the Interior certify to the Secretary of the Treasury upon application by owners of historic properties for Federal tax benefits: (a) The historic character of the property, and (b) that the rehabilitation work is consistent with that historic character. The NPS administers the program with the Internal Revenue Service. NPS uses the Historic Preservation Certification Application to evaluate the condition and historic significance of buildings undergoing rehabilitation for continued use, and to evaluate whether the rehabilitation work meets the Secretary of the Interior's Standards for Rehabilitation. The Department of the Interior regulation 36 CFR Part 67 contains a requirement for completion of an application form. The information required on the application form is needed to allow the authorized officer to determine if the applicant is qualified to obtain historic preservation certifications from the Secretary of the Interior. These certifications are necessary in order for an applicant to receive substantial Federal tax incentives authorized by Section 47 of the Internal Revenue Code. These incentives include 20% Federal income tax credit for the rehabilitation of historic buildings and an income tax deduction for the donation of easements on historic properties. The Internal Revenue Code also provides 10%

Federal income tax credit for the rehabilitation of non-historic buildings built before 1936, and owners of non-historic buildings in historic districts must also use the application to obtain a certification from the Secretary of the Interior that their building does not contribute to the significance of the historic district before they claim this lesser tax credit for rehabilitation. The obligation to respond is required to obtain and retain benefits.

Description of respondents:

Individuals or households, businesses or other for-profit entities.

Estimated average number of respondents: 4,000 per year.

Estimated average number of responses: 4,000 per year.

Frequency of Response: 1 per respondent.

Estimated average time burden per respondent: 20 hours.

Estimated total annual reporting burden: 80,000 hours per year.

Comments are invited on: (1) The practical utility of the information being gathered; (2) the accuracy of the burden hour estimate; (3) ways to enhance the quality, utility, and clarity of the information being collected; and (4) ways to minimize the burden to respondents, including use of automated information collection techniques or other forms of information technology. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: January 12, 2009.

Leonard E. Stowe,
NPS, Information Collection Clearance Officer.

[FR Doc. E9-2051 Filed 2-2-09; 8:45 am]

BILLING CODE 4312-52-M

DEPARTMENT OF THE INTERIOR

National Park Service

30-Day Notice of Intention To Request Clearance of Collection of Information; Opportunity for Public Comment

AGENCY: Department of the Interior, National Park Service.

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C., Chapter 3507) and 5 CFR Part 1320, Reporting and Record Keeping Requirements, the National Park Service (NPS) invites public comments on an extension of a currently approved collection of information (OMB #1024-0018).

DATES: Public comments on this information Collection Request (ICR) will be accepted on or before March 5, 2009.

ADDRESSES: You may submit comments directly to the Desk Officer for the Department of the Interior (OMB #1024-0018), Office of Information and Regulatory Affairs, OMB, by fax at 202/395-6566, or by electronic mail at oir_docket@omb.eop.gov. Please also mail or hand carry a copy of your comments to Lisa Deline, Managing Editor, National Register of Historic Places, National Park Service, 1201 Eye Street NW., 8th Floor, Washington, DC 20005 or via fax at 202/371-2229.

FOR FURTHER INFORMATION CONTACT: Paul Loether, Chief, National Register of Historic Places and National Historic Landmark Program, 1201 Eye Street, NW, 8TH Floor, Washington, DC 20005 or via fax at 202/371-2229. You are entitled to a copy of the entire ICR package free-of-charge. You may access this ICR at <http://www.reginfo.gov/public/>.

Comments Received on the 60-Day Federal Register Notice: The NPS published a 60-day Notice to solicit public comments on this ICR in the **Federal Register** on July 11, 2008 (Vol. 73, No. 134, Page 39984-39985). The comment period closed on September 9, 2008. No public comments were received on this Notice.

SUPPLEMENTARY INFORMATION:

Title: 36 CFR 60 and 63, National Register of Historic Places Registration Form, Continuation Sheet, Multiple Property Documentation Form (aka MPS).

Form(s): NPS 10-900 (Registration Form), 10-900-a (Continuation Sheet), 10-900-b (Multiple Property Documentation Form).

OMB Control Number: 1024-0018.

Type of Request: Extension of a currently approved collection of information.

Expiration Date: 01/31/2009.

Description of Need: The National Historic Preservation Act of 1966 requires the Secretary of the Interior to maintain and expand the National Register of Historic Places, and to establish criteria and guidelines for including properties in the National Register. The National Register of

Historic Places Registration Form documents properties nominated for listing in the National Register and demonstrates that they meet the criteria established for inclusion. The documentation is used to assist in preserving and protecting the properties and for heritage education and interpretation.

National Register properties must be considered in the planning for Federal or federally assisted projects. National Register listing is required for eligibility for the federal rehabilitation tax incentives. The primary purpose of the ICR is to nominate properties for listing in the National Register of Historic Places, the official list of the Nation's cultural resources worthy of preservation, which Public Law requires that the Secretary of the Interior maintain and expand. Properties are listed in the National Register upon nomination by State, Federal and Tribal Historic Preservation Officers. The National Register of Historic Places Registration Form documents properties nominated for listing in the National Register and demonstrates that they meet the criteria established for inclusion. The documentation is used to assist in preserving and protecting the properties and for heritage education interpretation. National Register properties and those eligible for listing may be eligible for Federal Rehabilitation tax incentives. The forms provide the historic documentation on which decisions for listing and eligibility are based. The obligation to respond is required to obtain and retain benefits.

Description of Respondents: The affected public are State, tribal, and local governments, businesses, non-profit organizations, and individuals. Nominations to the National Register of Historic Places are voluntary.

Estimated Annual Reporting Burden: 55,560 hours, broken down as follows: 1,262 newly proposed individual and district nominations @36 hrs. each = 45,432; 196 nominations submitted under existing MPS @ 18 hrs. each 3,528; 55 newly proposed MPS @ 120 hrs. each = 6,600.

Estimated Average Burden Hours per Response: Depending on which form is used, the average burden hours per response may vary considerably because of many complex factors. In general, to fulfill minimum program requirements describing the nominated property and demonstrating its eligibility under the criteria, the average burden hours is 36 hours for a newly proposed individual nomination: 18 hours for a nomination proposed under an existing Multiple Property Submission (MPS); and 120

hours for a newly proposed MPS cover document.

Continuation sheets (10-900-a) are used for additional information for both the individual nomination form and the multiple property form, as needed. As such, the calculation of average burden hours per response for the continuation sheets has been included in the average calculations above for the nomination form (10-900) and the multiple property form (10-900-b).

Estimated Average Number of Respondents: 1,513.

Estimated Frequency of Response: 1,513 annually.

Comments are invited on: (1) The practical utility of the information being gathered; (2) the accuracy of the burden hour estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden to respondents, including use of automated information collection techniques or other forms of information technology. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that OMB will be able to do so.

Dated: January 27, 2009.

Leonard E. Stowe,

NPS Information Collection Clearance Officer.

[FR Doc. E9-2053 Filed 2-2-09; 8:45 am]

BILLING CODE 4312-52-M

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701-TA-460-461 (Preliminary)]

Ni-Resist Piston Inserts From Argentina and Korea

AGENCY: United States International Trade Commission.

ACTION: Institution of countervailing duty investigations and scheduling of preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase countervailing duty investigation Nos. 701-TA-460-461 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) (the Act) to

determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Argentina and Korea of Ni-resist piston inserts, provided for in subheading 8409.99.91 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Governments of Argentina and Korea. Unless the Department of Commerce extends the time for initiation pursuant to section 702(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B)), the Commission must reach a preliminary determination in countervailing duty investigations in 45 days, or in this case by March 12, 2009. The Commission's views are due at Commerce within five business days thereafter, or by March 19, 2009.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

DATES: *Effective Date:* January 26, 2009.

FOR FURTHER INFORMATION CONTACT: Joshua Kaplan (202-205-3184), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on January 26, 2009, by Korff Holdings, LLC dba Quaker City Castings, Salem, OH.

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise

under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to these investigations under the APO issued in these investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on February 17, 2009, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC. Parties wishing to participate in the conference should contact Joshua Kaplan (202-205-3184) not later than February 12, 2009, to arrange for their appearance. Parties in support of the imposition of countervailing duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before February 23, 2009, a written brief containing information and arguments pertinent to the subject matter of these investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the

Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to these investigations must be served on all other parties to these investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: January 29, 2009.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9-2241 Filed 2-2-09; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree; Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States v. F.O.F. Inc.*, Civil Action No. 3:09-cv-5015, was lodged January 15, 2009, with the United States District Court for the Western District of Washington. Under this Consent Decree, the Settling Defendant is required by pay \$250,000.00 in payment for Response Costs at or in connection with the Commencement Bay Nearshore/Tideflats Superfund Site in the City of Tacoma, Pierce County, Washington.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environmental and Natural Resources Division, and either e-mailed to pubcomment-ees.enrd@usdoj.gov or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United*

States v. F.O.F. Inc., DOJ Ref. 90–11–2–726/5.

The proposed consent decree may be examined at the office of the United States Attorney, 700 Stewart Street, Suite 5220, Seattle, WA 98101–1271 and at U.S. EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101. During the comment period, the consent decree may be examined on the following Department of Justice Web site: http://www.usdoj.gov/enrd/Consent_Decrees.html. A copy of the consent decree also may 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, please enclose a check in the amount of \$6.25 for *United States v. F.O.F. Inc.* (25 cents per page reproduction cost) payable to the U.S. Treasury.

Robert E. Maher, Jr.,
Assistant Section Chief, Environmental
Enforcement Section.
[FR Doc. E9–2242 Filed 2–2–09; 8:45 am]
BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Advanced Media Workflow Association, Inc.

Notice is hereby given that, on December 18, 2008, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), Advanced Media Workflow Association, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Artesia Digital Media Group, Beaconsfield, United Kingdom; FirstSpin, Inc., Long Island City, NY; Grant Hammond (individual member), London, United Kingdom; and William C. Miller (individual member), New Rochelle, NY have been added as parties to this venture. Also, Filmlight, Harbord, New South Wales, Australia; National Geographic, Washington, DC; and Craig Beckman (individual

member), Lorton, VA have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Advanced Media Workflow Association, Inc. intends to file additional written notifications disclosing all changes in membership.

On March 28, 2000, Advanced Media Workflow Association, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 29, 2000 (65 FR 40127).

The last notification was filed with the Department on September 11, 2008. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on October 22, 2008 (73 FR 63020).

Patricia A. Brink,
Deputy Director of Operations, Antitrust
Division.
[FR Doc. E9–2095 Filed 2–2–09; 8:45 am]
BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—ASTM International

Notice is hereby given that, on December 9, 2008, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”) ASTM International (“ASTM”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ASTM has provided an updated list of current, ongoing ASTM standards activities originating between September 2008 and December 2008 designated as Work Items. A complete listing of ASTM Work Items, along with a brief description of each, is available at <http://www.astm.org>.

On September 15, 2004, ASTM filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 10, 2004 (69 FR 65226).

The last notification was filed with the Department on September 9, 2008. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on October 16, 2008 (73 FR 61441).

Patricia A. Brink,
Deputy Director of Operations, Antitrust
Division.
[FR Doc. E9–2094 Filed 2–2–09; 8:45 am]
BILLING CODE 4410–11–P

NUCLEAR REGULATORY COMMISSION

Sunshine Federal Register Notice

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATES: Weeks of February 2, 9, 16, 23, March 2, 9, 2009.

PLACE: Commissioners’ Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of February 2, 2009

Wednesday, February 4, 2009

1:25 p.m. Affirmation Session (Public Meeting) (Tentative).

a. AmerGen Energy Company, LLC (License Renewal for Oyster Creek Nuclear Generating Station), Docket No. 50–219–LR, Citizens’ Petition for Review of LBP–07–17 and Other Interlocutory Decisions in the Oyster Creek Proceeding (Tentative).

b. Shaw Areva MOX Services (Mixed Oxide Fuel Fabrication Facility: Possession and Use License), LBP–08–11 (June 27, 2008) (Tentative).

This meeting will be webcast live at the Web address—<http://www.nrc.gov>

1:30 p.m. Briefing on Risk-Informed, Performance-Based Regulation (Public Meeting) (Contact: Gary Demoss, 301–251–7584).

This meeting will be webcast live at the Web address—<http://www.nrc.gov>

Thursday, February 5, 2009

9:30 a.m. Briefing on Uranium Enrichment—Part 1 (Public Meeting).

1:30 p.m. Briefing on Uranium Enrichment—Part 2 (Public Meeting) (Contact for both parts: Brian Smith, 301–492–3137).

Both parts of this meeting will be webcast live at the Web address—<http://www.nrc.gov>

3 p.m. Briefing on Uranium Enrichment (Closed—Ex. 1).

Week of February 9, 2009—Tentative

There are no meetings scheduled for the week of February 9, 2009.

Week of February 16, 2009—Tentative

There are no meetings scheduled for the week of February 16, 2009.

Week of February 23, 2009—Tentative

There are no meetings scheduled for the week of February 23, 2009.

Week of March 2, 2009—Tentative

Friday, March 6, 2009

9:30 a.m. Briefing on Guidance for Implementation of Security Rulemaking (Public Meeting) (Contact: Rich Correia, 301-415-7674).

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

Week of March 9, 2009—Tentative

There are no meetings scheduled for the week of March 9, 2009.

* * * * *

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415-1292. Contact person for more information: Rochelle Baval, (301) 415-1651.

* * * * *

Additional Information

The Briefing on Guidance for Implementation of Security Rulemaking (Public Meeting) previously scheduled on March 4, 2009 at 1:30 p.m. has been rescheduled on March 6, 2009 at 9:30 a.m.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/about-nrc/policy-making/schedule.html>

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify the NRC's Disability Program Coordinator, Rohn Brown, at 301-492-2279, TDD: 301-415-2100, or by e-mail at rohn.brown@nrc.gov. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301-415-1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in

receiving this Commission meeting schedule electronically, please send an electronic message to darlene.wright@nrc.gov.

January 29, 2009.

Rochelle C. Baval,

Office of the Secretary.

[FR Doc. E9-2320 Filed 1-30-09; 4:15 pm]

BILLING CODE 7590-01-P

OFFICE OF MANAGEMENT AND BUDGET**Information Collection Activities: Proposed Collection; Comment Request**

AGENCY: Office of Management and Budget.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) invites the general public and Federal agencies to comment on the renewal without change of four (4) standard forms: SF-269, Financial Status Report (Long Form); SF-269A, Financial Status Report (Short Form); SF-272, Federal Cash Transactions Report; and SF-272A, Federal Cash Transactions Report. OMB anticipates that this will be the last renewal of these forms. By no later than October 1, 2009, each federal agency must transition from the SF-269, SF-269A, SF-272, and SF-272A to the Federal Financial Report (FFR), by requiring recipients to use the FFR for all financial reports submitted after the date it makes the transition. In making the transition, an agency would incorporate the requirement to use the FFR into terms and conditions of new and ongoing grant and cooperative agreement awards, State plans, and/or program regulations that specify financial reporting requirements.

DATES: Comments must be submitted on or before March 5, 2009.

ADDRESSES: Due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, we encourage respondents to submit comments electronically to ensure timely receipt. We cannot guarantee that comments mailed will be received before the comment closing date.

Comments may be sent via <http://www.regulations.gov>—a Federal E-Government Web site that allows the public to find, review, and submit comments on documents that agencies have published in the **Federal Register** and that are open for comment. Simply type the form number in quotes in the

Comment or Submission search box, click Go, and follow the instructions for submitting comments. Comments received by the date specified above will be included as part of the official record.

Comments may be e-mailed to: mpridgen@omb.eop.gov. Please include the form number in the subject line of your e-mail message. Also, please include the full body of your comments in the text of the electronic message, as well as in an attachment. Please include your name, title, organization, postal address, telephone number, and e-mail address in the text of the message. Comments may also be submitted via facsimile to (202) 395-3952.

Comments may be mailed to Marguerite Pridgen, Office of Federal Financial Management, Office of Management and Budget, Room 6025, New Executive Office Building, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Marguerite Pridgen, Office of Federal Financial Management, Office of Management and Budget, telephone (202) 395-7844 (direct) or (202) 395-3993 (main office) and e-mail: mpridgen@omb.eop.gov. The standard forms can be downloaded from the OMB Grants Management home page (http://www.whitehouse.gov/omb/grants/grants_forms.html).

OMB Control No.: 0348-0039.

Title: Financial Status Report (Long Form).

Form No.: SF-269.

Type of Review: Extension of a currently approved collection.

Respondents: States, Local Governments, Universities, Non-Profit Organizations.

Number of Responses: 100,000.

Estimated Time per Response: 60 minutes.

Needs and Uses: The SF-269 is used by federal grant recipients to report the financial status of grant funds. The Federal awarding agencies use information reported on this form for the award and general management of Federal assistance program awards.

OMB Control No.: 0348-0038.

Title: Financial Status Report (Short Form).

Form No.: SF-269A.

Type of Review: Extension of a currently approved collection.

Respondents: States, Local Governments, Universities, Non-Profit Organizations.

Number of Responses: 100,000.

Estimated Time per Response: 60 minutes.

Needs and Uses: The SF-269A is used by federal grant recipients to report the

financial status of grant funds. The Federal awarding agencies use information reported on this form for the award and general management of Federal assistance program awards.

OMB Control No.: 0348-0003.

Title: Federal Cash Transactions

Report and Continuation Sheet.

Form Nos.: SF-272 and SF-272A.

Type of Review: Extension of a currently approved collection.

Respondents: States, Local Governments, Universities, Non-Profit Organizations.

Number of Responses: 100,000.

Estimated Time per Response: 60 minutes.

Needs and Uses: The SF-272 and SF-272A are used by federal grant recipients to report cash transactions using grant funds. The Federal awarding agencies use information reported on this form for the award and general management of Federal assistance program awards.

Office of Management and Budget.

Carrie Hug,

Chief, Financial Standards and Grants Branch, Office of Federal Financial Management.

[FR Doc. E9-2247 Filed 2-2-09; 8:45 am]

BILLING CODE 3110-01-P

POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: Tuesday, February 3, 2009, at 10 a.m.; Wednesday, February 4, 2009, at 8 a.m. and 10:30 a.m.

PLACE: Washington, DC, at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., in the Benjamin Franklin Room.

STATUS: February 3 at 10 a.m.—Closed; February 4 at 8 a.m.—Closed; February 4 at 10:30 a.m.—Open.

MATTERS TO BE CONSIDERED:

Tuesday, February 3 at 10:00 a.m. (Closed):

1. Strategic Issues.
2. Pricing.
3. Financial Matters.
4. Personnel Matters and Compensation Issues.

5. Governors' Executive Session—Discussion of prior agenda items and Board Governance.

Wednesday, February 4 at 8 a.m. (Closed):

1. Continuation of Tuesday's closed session agenda.

Wednesday, February 4 at 10:30 a.m. (Open):

1. Minutes of the Previous Meetings, November 12-13, December 2, 2008; and January 22, 2009.

2. Remarks of the Chairman of the Board.

3. Remarks of the Postmaster General and CEO.

4. Committee Reports.

5. Quarterly Report on Service Performance.

6. Financial Update.

7. Tentative Agenda for the March 31-April 1, 2009, meeting in Washington, D.C.

8. Election of Chairman and Vice Chairman of the Board of Governors.

FOR FURTHER INFORMATION: Julie S. Moore, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260-1000. Telephone (202) 268-4800.

Julie S. Moore,

Secretary.

[FR Doc. E9-2268 Filed 1-29-09; 4:15 pm]

BILLING CODE 7710-12-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:

Regulation D and Form D; OMB Control No. 3235-0076; SEC File No. 270-72.

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.

Regulation D (17 CFR 230.501 *et seq.*) sets forth rules governing the limited offer and sale of securities without Securities Act registration. The purpose of Form D (17 CFR 239.500) is to collect empirical data, which provides a continuing basis for action by the Commission either in terms of amending existing rules and regulations or proposing new ones. In addition, the Form D allows the Commission to elicit information necessary in assessing the effectiveness of Regulation D (17 CFR 230.501 *et seq.*) and Section 4(6) of the Securities Act of 1933 (15 U.S.C. 77d(6)) as capital-raising devices for all businesses. Approximately 25,000 issuers file Form D and it takes approximately 4 hours per response. We

estimate that 25% of 4 hours per response (1 hour per response) is prepared by the issuer for an annual reporting burden 25,000 hours (1 hour per response × 25,000 responses). The remaining 75% of the burden is prepared by outside counsel.

Written comments are invited on: (a) Whether this 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 imposed by 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.

Please direct your written comments to Charles Boucher, Director/CIO, 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.

January 26, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-2227 Filed 2-2-09; 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:

Regulation FD; OMB Control No. 3235-0536; SEC File No. 270-475.

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 Budget for extension and approval.

Regulation FD (17 CFR 243.100 *et seq.*)—Other Disclosure Materials requires public disclosure of material

information from issuers of publicly traded securities so that investors have current information upon which to base investment decisions. The purpose of the regulation is to require: (1) An issuer that intentionally discloses material information, to do so through public disclosure, not selective disclosure; and (2) an issuer that learns that it has made a non-intentional material selective disclosure, issuer to make prompt public disclosure of that information. Regulation FD was adopted due to a concern that the practice of selective disclosure leads to a loss of investor confidence in the integrity of our capital markets. We estimate that approximately 13,000 issuers make Regulation FD disclosures approximately five times a year for a total of 58,000 submissions annually, not including an estimated 7,000 issuers who file Form 8-K to comply with Regulation FD. We estimate that it takes 5 hours per response (58,000 responses × 5 hours) for a total burden of 290,000 hours annually. In addition, we estimate that 25% of the 5 hours per response (1.25 hours) is prepared by the filer for an annual reporting burden of 72,500 hours (1.25 hours per response × 58,000 responses).

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 has practical utility; (b) the accuracy of the agency's estimate of the burden imposed by 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.

Please direct your written comments to Charles Boucher, Director/CIO, 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.

January 26, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-2228 Filed 2-2-09; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59312; File No. SR-BATS-2009-005]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees for Use of BATS Exchange, Inc.

January 28, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 23, 2009, BATS Exchange, Inc. ("BATS" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. BATS has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify its fee schedule applicable to use of the Exchange effective January 23, 2009, in order to implement new pricing for Destination Specific Orders⁵ routed away from the Exchange to the NASDAQ OMX BX, Inc. ("NASDAQ BX").

The text of the proposed rule change is available at the Exchange's Web site at <http://www.batstrading.com>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these

statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) *Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to modify its fee schedule applicable to use of the Exchange effective January 23, 2009, in order to implement new pricing for Destination Specific Orders routed away from the Exchange to NASDAQ BX. The Exchange proposes to charge the same price for such Destination Specific Orders as it charges for Destination Specific Orders routed to NASDAQ Stock Market, the International Securities Exchange, and the National Securities Exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.⁶ Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,⁷ in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The Exchange believes that its fees and credits are competitive with those charged by other venues, and notes that the charge for Destination Specific Orders routed to NASDAQ BX is consistent with the fees the Exchange charges for certain other Destination Specific Orders. Finally, the Exchange believes that the proposed rate for orders routed to NASDAQ BX is equitable in that it applies uniformly to all Members of the Exchange.

(B) *Self-Regulatory Organization's Statement of Burden on Competition*

The Exchange does not believe that the proposed rule change imposes any burden on competition.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

⁵ As defined in BATS Rule 11.9(c)(10).

⁶ 15 U.S.C. 78f.

⁷ 15 U.S.C. 78f(b)(4).

(C) Self-Regulatory Organization's Statement on Comments Regarding the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act⁸ and Rule 19b-4(f)(2) thereunder,⁹ because it establishes or changes a due, fee or other charge imposed on members by the Exchange. Accordingly, the proposal is effective upon filing with the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File No. SR-BATS-2009-005 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090. All submissions should refer to File No. SR-BATS-2009-005. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule

change that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of BATS. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-BATS-2009-005 and should be submitted on or before February 24, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-2231 Filed 2-2-09; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59310; File No. SR-NASDAQ-2009-005]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change as Modified by Amendment No. 1 Thereto To Reduce The Order Exposure Period on the NASDAQ Options Market

January 28, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 23, 2009, The NASDAQ Stock Market LLC ("NASDAQ") filed with the Securities and Exchange Commission ("Commission") proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. Amendment 1 was filed on January 27, 2009. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Specifically, NASDAQ is proposing to amend Chapter VII, Section 12 of the NASDAQ rule manual governing the NASDAQ Options Market to provide that: (i) Options Participants may not execute as principal against orders on the limit order book they represent as agent unless such agency orders are first exposed on the limit order book for at least one (1) second, or the Options Participant has been bidding or offering on the Exchange for at least one (1) second prior to receiving an agency order that is executable against such order, and (ii) Options Participants must expose orders they represent as agent for at least one (1) second before such orders may be automatically executed, in whole or in part, against orders solicited from members and non-member broker-dealers to transact with such orders.³

The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.⁴

* * * * *

Chapter VII, Market Participants:

Sec. 12 Order Exposure Requirements:

With respect to orders routed to NOM, Options Participants may not execute as principal orders they represent as agent unless (i) agency orders are first exposed on NOM for at least *one (1) second* [three (3) seconds] or (ii) the Options Participant has been bidding or offering on NOM for at least *one (1) second* [three (3) seconds] prior to receiving an agency order that is executable against such bid or offer.

Commentary:

.01 and .02 No change.

.03 With respect to non-displayed trading interest, including the reserve portion, the exposure requirement of subsection (i) is satisfied if the displayable portion of the order is displayed at its displayable price for *one* [three] seconds.

.04 No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of,

³ Amendment 1 makes a technical correction to conform Commentary .03 to the proposed new rule language.

⁴ Changes are marked to the rule text that appears in the electronic NASDAQ Manual found at <http://wallstreet.cch.com/nasdaq/>.

⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

⁹ 17 CFR 240.19b-4(f)(6) [sic].

and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to reduce the exposure time during which Options Participants may not execute as principal against orders they represent as agent while continuing to afford the opportunity for other market participants to execute at or better than the limit order price during such exposure period.

Chapter VII, Section 12 currently provide that an Options Participant⁵ may not execute as principal against orders on the limit order book they represent as agent unless: (a) Agency orders are first exposed on the limit order book for at least three seconds, or (b) the Options Participant has been bidding or offering on the Exchange for at least three (3) seconds prior to receiving an agency order that is executable against such order.

In addition, Options Participants must expose orders they represent as agent for at least three (3) seconds before such orders may be automatically executed, in whole or in part, against orders solicited from members and non-member broker-dealers to transact with such orders. Under the proposal, these exposure periods would be reduced to one second.

The Exchange adopted the 3-second exposure period upon its initial creation, based upon similar requirements and functionality already in existence on other options exchanges.⁶ The three-second order handling and exposure period assumes that three seconds is not long enough to permit human interaction with the orders. Rather, market participants had become sufficiently automated that they could react to these orders electronically. In this context, the Exchange believes it would be in all

market participants' best interest to minimize the exposure period to a time frame that continues to allow adequate time for market participants to respond electronically, as both the order being exposed and the participants responding are subject to market risk during the exposure period. In this respect, the Exchange states that its experience with the three-second exposure time period indicates that one second would provide an adequate response time. The Exchange does not believe it is necessary or beneficial to the orders being exposed to continue to subject them to market risk for a full three seconds.

The Exchange has numerous market participants that have the capability and do opt to respond within a one-second exposure period on the Exchange's fully automated trading platform for options. Recently, the Exchange distributed a survey to all NOM Options Participants. To substantiate that its members could receive, process, and communicate a response back to the Exchange within one second, the survey asked members to identify how many milliseconds it took for (i) a broadcast from the Exchange to reach their systems; (ii) their systems to generate responses; and (iii) their responses to reach the Exchange. The survey results indicate that the time it takes a message to travel between the Exchange and its members is not more than 100 milliseconds each way. The survey also indicated that it typically takes not more than 50 milliseconds for member systems to process the information and generate a response. Thus, the survey indicated that it typically takes not more than 250 milliseconds for members to receive, process, and respond to broadcast messages related to the various Mechanisms. Additionally, all 8 members that responded to the survey indicated that reducing the exposure period to one second would not impair their ability to participate in orders affected by the proposal. The Exchange believes that this information provides additional support for its assertion that reducing the exposure periods from three seconds to one second will continue to provide members with sufficient time to ensure effective interaction with orders.

The Exchange is submitting the instant proposal in order to remain competitive with other exchanges that have reduced the exposure period from 3 seconds to 1 second.⁷ The Exchange

believes that reducing its order handling and exposure periods from three seconds to one second will benefit market participants. The Exchange further believes that reducing the time periods to one second will allow it to provide investors and other market participants with more timely executions, thereby reducing market risk.⁸

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act⁹ in general, and furthers the objectives of Section 6(b)(5) of the Act¹⁰ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by providing investors with more timely execution of their options orders, while ensuring that there is adequate exposure of limit orders in the Exchange's marketplace.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, NASDAQ is adopting this proposed rule change in response to the competitive advantage enjoyed by options exchanges that have already reduced the order exposure requirement from three seconds to one second.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

None.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or

⁵ Pursuant to Chapter I, Section 1(a)(40) of the NOM Rules, the term "Options Participant" means a firm, or organization that is registered with the Exchange for purposes of participating in options trading on NOM as a "Nasdaq Options Order Entry Firm" or "Nasdaq Options Market Maker".

⁶ Securities Exchange Act Release No. 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (SR-NASDAQ-2007-004).

⁷ See Securities Exchange Act Release Nos. 57849 (May 22, 2008), 73 FR 31167 (May 30, 2008) (SR-CBOE-2008-16); and 58224 (July 25, 2008), 73 FR 44303 (July 30, 2008) (SR-ISE-2007-94).

⁸ The Exchange believes that the proposed timeframe would give market participants sufficient time to respond, compete, and provide price improvement for orders. The Exchange also notes that electronic systems are readily available to, if not already in place for, Exchange members that allow them to respond in a meaningful way within the proposed timeframe.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

(ii) as to which the Phlx consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

The Exchange has requested accelerated approval of this proposed rule change prior to the 30th day after the date of publication of the notice in the **Federal Register**. The Commission is considering granting accelerated approval of the proposed rule change at the end of a 15-day comment period.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the proposal, including whether it is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2009-005 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2009-005. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal

identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-NASDAQ-2009-005 and should be submitted on or before February 18, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-2226 Filed 2-2-09; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

Release No. 34-59305; File No. SR-NYSEArca-2009-04]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Arca, Inc. Amending Rules Governing Flexible Exchange Options to Increase Maximum Term

January 27, 2009.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the "Act")² and Rule 19b-4 thereunder,³ notice is hereby given that, on January 9, 2009, NYSE Arca, Inc. ("NYSE Arca" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange rules governing Flexible Exchange Options. A copy of this filing is available on the Exchange's Web site at <http://www.nyse.com>, at the Exchange's principal office and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of,

and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to increase the maximum term for FLEX Options. Currently, the maximum term for a FLEX Equity Options⁴ is three (3) years, provided an OTP Holder may request a longer term to a maximum of five (5) years,⁵ and for FLEX Index Options the maximum term is five (5) years.

NYSE Arca is proposing to increase the maximum term for all FLEX Options to fifteen years and to eliminate the requirement that a FLEX Post Official make a liquidity assessment. The changes are being proposed to simplify the process and in response to investor interest in expanding the maximum term, in order to accommodate their desire to bring trades that are otherwise conducted in the over-the-counter ("OTC") market to an exchange environment.

The Exchange believes that expanding the eligible term for FLEX Options as proposed is important and necessary to the Exchange's efforts to create a product and market that provides OTP Holders, and other qualified investors interested in FLEX-type options, with an improved but comparable alternative to the OTC market in customized options, which can take on contract characteristics similar to FLEX Options but are not subject to the same maximum term restriction. By expanding the eligible term for FLEX Options, market participants will now have greater flexibility in determining whether to execute their customized options in an exchange environment or in the OTC market. NYSE Arca believes market participants benefit from being able to trade these customized options in an exchange environment in several ways, including, but not limited to the following: (1) Enhanced efficiency in initiating and closing out positions; (2)

⁴ Flex Equity Options includes options on specified equity securities or Exchange Traded Fund Shares.

⁵ Pursuant to NYSE Arca Rule 5.32 (d)(1), upon assessment by the FLEX Post Official that sufficient liquidity exists, such request will be granted.

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

increased market transparency; and (3) heightened contra-party creditworthiness due to the role of The Options Clearing Corporation (“OCC”) as issuer and guarantor of FLEX Options. Finally, the Exchange has contacted the OCC and they have confirmed that they can configure their systems to support FLEX Options that have a maximum expiration of fifteen years.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act⁷ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. Specifically, by expanding the maximum terms for Flexible Exchange Traded Options, the Exchange to [sic] will be able to offer market participants additional investment choices that come with increased market transparency and heightened contra-party creditworthiness, both of which and [sic] are consistent with Section 6(b) of the Act⁸ in general, and the objectives of Section 6(b)(5) of the Act.⁹

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁰ and Rule 19b-4(f)(6) thereunder.¹¹ Because the proposed rule change does not: (i)

Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹² and Rule 19b-4(f)(6)(iii) thereunder.¹³

A proposed rule change filed under Rule 19b-4(f)(6)¹⁴ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁵ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.¹⁶

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission’s Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSEArca-2009-04 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary,

Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2009-04. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission’s Public Reference Section, 100 F Street, NE., Washington, DC 20549-1090 on official business days between 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at NYSE Arca’s principal office and on its Internet Web site at <http://www.nyse.com>. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2009-04 and should be submitted on or before February 24, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-2224 Filed 2-2-09; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59308; File No. SR-NYSEArca-2009-05]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change to Establish Fees for NYSE Arca Trades

January 28, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

¹⁷ 17 CFR 200.30-3(a)(12).

⁶ 15 U.S.C. 78f (b).

⁷ 15 U.S.C. 78f (b)(5).

⁸ *Id.*

⁹ *Id.*

¹⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

¹¹ 17 CFR 240.19b-4(f)(6).

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange’s intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied the pre-filing requirement.

¹⁴ 17 CFR 240.19b-4(f)(6).

¹⁵ 17 CFR 240.19b-4(f)(6)(iii).

¹⁶ The Commission notes that NYSE Arca is not requesting waiver of the 30-day operative delay, despite including this language in its Notice. Telephone conference between Glenn H. Gsell, Managing Director, NYSE Regulation, and Kristie Diemer, Special Counsel, Commission, on January 8, 2009.

(“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 21, 2009, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

NYSE Arca proposes to introduce its NYSE Arca Trades service and to establish fees for that service. NYSE Arca Trades is a new NYSE Arca-only market data service that allows a vendor to redistribute on a real-time basis the same last sale information that NYSE Arca reports to the Consolidated Tape Association (“CTA”) for inclusion in CTA’s consolidated data stream and certain other related data elements (“NYSE Arca Last Sale Information”).

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

a. *The Service.* The Exchange proposes to introduce NYSE Arca Trades, a new service pursuant to which it will allow vendors, broker-dealers and others (“NYSE Arca-Only Vendors”) to make available NYSE Arca Last Sale Information on a real-time basis.³ NYSE Arca Last Sale Information would include last sale information for all

securities that are traded on the Exchange.

The Exchange will make NYSE Arca Last Sale Information available through its new NYSE Arca Trades service at the same time as it provides last sale information to the processor under the CTA Plan. In addition to the information that the Exchange provides to CTA, NYSE Arca Last Sale Information will also include a unique sequence number that the Exchange assigns to each trade and that allows an investor to track the context of the trade through such other Exchange market data products as ArcaBook®.

Contemporaneously with this proposed rule change, the Exchange submitted a proposed rule change that seeks to establish a pilot program for the receipt and redistribution of the NYSE Arca Trades datafeed(s) without charge to either the datafeed recipient or the end-user. The Exchange proposes to provide that free offering on a pilot program basis until the later of Commission approval of this proposed rule change and the end of the pilot period.

b. The Fees.

i. *Access Fee.* For the receipt of access to the datafeeds of NYSE Arca Last Sale Information that the Exchange will make available, the Exchange proposes to charge \$750 per month. For that fee, the datafeed recipient will receive access to each of the NYSE Arca Last Sale Information datafeeds that NYSE Arca makes available. The Exchange does not propose to impose any program classification charges for the use of NYSE Arca Trades.

ii. *Device Fee.* The Exchange proposes to charge each subscriber to an NYSE Arca-Only Vendor’s NYSE Arca Trades service:

i. \$5 per month per display device for the receipt and use of NYSE Arca Last Sale Information relating to Network A and Network B Eligible Securities (as the CTA Plan uses those terms); and

ii. \$5 per month per display device for the receipt and use of NYSE Arca Last Sale Information relating to securities listed on Nasdaq.

(The Exchange does not currently perceive a demand for a nonprofessional subscriber fee for NYSE Arca Trades, but will monitor customer response.)

c. *The Fees are Non-Discriminatory.* No investors or broker-dealers are required to subscribe to the product, as they can find the same NYSE Arca last sale prices in the Exchange’s NYSE Arca Realtime Reference Prices service.⁴ Or,

they can find them integrated with the prices that other markets make available under the CTA Plan. Indeed, even though NYSE Arca Trades’ Last Sale Information provides a less expensive alternative to the consolidated price information that investors and broker-dealers receive from CTA, the Exchange believes that the information that NYSE Arca contributes to the CTA consolidated datafeed and the low latency of the CTA datafeed will continue to satisfy the needs of the vast majority of individual and professional investors. Most investors and broker-dealers are not likely to substitute the NYSE Arca Trades datafeed for the CTA datafeed for display purposes.

Rather, the Exchange developed NYSE Arca Trades primarily at the request of traders who are very latency sensitive. The latency difference between accessing last sales through the NYSE Arca datafeed or through the CTA datafeed can be measured in tens of milliseconds. The Exchange anticipates that demand for the product will derive primarily from investors and broker-dealers who desire to use NYSE Arca Trades to power certain trading algorithms or smart order routers.

Regardless of an investor’s reasons for subscribing to the NYSE Arca Trades service, the access fee applies equally to all NYSE Arca-Only Vendors that receive the NYSE Arca Trades datafeed and the device fee applies equally to all subscribers that receive an NYSE Arca-Only Vendor’s NYSE Arca Trades service. Section 603(a)(2) of Regulation NMS requires markets to distribute market data “on terms that are not unreasonably discriminatory.” The Exchange believes that both the access fee and the device fees comply with this standard.

d. *The Fees are Fair and Reasonable.* The Exchange believes that the levels at which it proposes to set the access and device fees comport with the standard that the Commission established for determining whether market data fees relating to non-core market data products are fair and reasonable. (“Non-core products” refers to products other than the consolidated products that markets offer collectively under the joint industry plans.) In its recent “Order Setting Aside Action by Delegated Authority and Approving Proposed Rule Change Relating to NYSE Arca Data” (the “NYSE ArcaBook Approval Order”),⁵ the Commission reiterated its position from its release approving Regulation NMS that it should “allow market forces, rather than

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Exchange notes that it will make NYSE Arca Trades available to vendors no earlier than it makes its last sale information available to the processor under the CTA Plan.

⁴ See Securities Exchange Act Release No. 34-58444 (August 29, 2008), 73 FR 51872 (September 5, 2008) (SR-NYSEArca-2008-96).

⁵ See Release No. 34-59039 (December 2, 2008); File No. SR-NYSE Arca-2006-21.

regulatory requirements, to determine what, if any, additional quotations outside the NBBO are displayed to investors.”⁶

The Commission went on to state that:

The Exchange Act and its legislative history strongly support the Commission’s reliance on competition, whenever possible, in meeting its regulatory responsibilities for overseeing the SROs and the national market system. Indeed, competition among multiple markets and market participants trading the same products is the hallmark of the national market system.⁷

The Commission then articulated the standard that it will apply in assessing the fairness and reasonableness of market data fees for non-core products, as follows:

With respect to non-core data, * * * the Commission has maintained a market-based approach that leaves a much fuller opportunity for competitive forces to work. This market-based approach to non-core data has two parts. The first is to ask whether the exchange was subject to significant competitive forces in setting the terms of its proposal for non-core data, including the level of any fees. If an exchange was subject to significant competitive forces in setting the terms of a proposal, the Commission will approve the proposal unless it determines that there is a substantial countervailing basis to find that the terms nevertheless fail to meet an applicable requirement of the Exchange Act or the rules thereunder.⁸

The Exchange believes that by this standard or any other standard, the proposed access and device fees are fair and reasonable. NYSE Arca and its market data products are subject to significant competitive forces and the proposed access and device fees represent responses to that competition. To start, the Exchange competes intensely for order flow. It competes with the other 10 national securities exchanges that currently trade equities, with electronic communication networks, with quotes posted in FINRA’s Alternative Display Facility and Trade Reporting Facilities, with alternative trading systems, and with securities firms that primarily trade as principal with their customer order flow “and the competition is fierce.”⁹

In addition, NYSE Arca Trades would compete with a number of alternative products. NYSE Arca Trades does not provide a complete picture of all trading activity in a security. Rather, the 12 SROs, the several Trade Reporting Facilities of FINRA, and ECNs that

produce proprietary data all produce trades and trade reports. Each is currently permitted to produce last sale information products, and many currently do, including Nasdaq and NYSE. In addition, investors can receive NYSE Arca trade reports through the consolidated CTA data stream or they can receive NYSE Arca trade reports for free by means of access to the Exchange’s NYSE Arca Realtime Reference Prices service.

In setting the level of the proposed NYSE Arca Trades access and device fees, the Exchange took into consideration several factors, including:

(1) Consultation with some of the entities that the Exchange anticipates will be the most likely to take advantage of NYSE Arca Trades;

(2) the contribution of market data revenues that the Exchange’s Board of Directors believes is appropriate for vendors and other entities that provide market data to the investing public;

(3) the contribution that revenues accruing from the proposed fees will make to meeting the overall costs of the Exchange’s operations;

(4) projected losses to the revenues accruing from the Exchange’s other market data fees, which losses are likely to result from the ability of NYSE Arca-Only Vendors to distribute NYSE Arca Trades to vendors, broker-dealers and investors in competition with the consolidated last sale information services that Participants provide under the CTA Plan; and

(5) investors’ and broker-dealers’ access to NYSE Arca last sale prices through NYSE Arca Realtime Reference Prices.

(6) the fact that the proposed fees provide an alternative to existing Network A and Network B fees under the CTA Plan and to the fees imposed under the Nasdaq/UTP Plan, alternatives that vendors will purchase only if they determine that the perceived benefits outweigh the cost.

In the aftermath of the NYSE ArcaBook Approval Order, the Exchange believes that the competition among exchanges for order flow and the competition among exchanges for market data products subject the proposed NYSE Arca Trades access and device fees to significant competitive forces.

In addition, the Exchange believes that no substantial countervailing basis exists to support a finding that the fees fail to meet the requirement of the Act.

In sum, the availability of a variety of alternative sources of information impose significant competitive pressures on NYSE Arca Trades and NYSE Arca’s compelling need to attract

order flow impose significant competitive pressure on NYSE Arca to act equitably, fairly, and reasonably in setting NYSE Arca Trades fees. The proposed NYSE Arca Trades access and device fees are, in part, responses to that pressure. The Exchange believes that the proposed NYSE Arca Trades service fees would reflect an equitable allocation of its overall costs to users of its facilities.

e. *Administrative Requirements.* The Exchange will require NYSE Arca-Only Vendors to enter into the form of “vendor” agreement into which the CTA Plan requires recipients of the Network A last sale prices information datafeeds to enter (the “Network A Vendor Form”). The Network A Vendor Form will authorize the NYSE Arca-Only Vendor to provide the NYSE Arca Trades service to its subscribers and customers.

The Network A Participants drafted the Network A Vendor Form as a one-size-fits-all form to capture most categories of market data dissemination. It is sufficiently generic to accommodate NYSE Arca Trades. The Network A Vendor Form has been in use in substantially the same form since 1990.¹⁰

Similarly, the Exchange will require professional and non-professional subscribers to NYSE Arca Trades to undertake to comply with the same contract, reporting, payment, and other administrative requirements as to which the Network A Participants subject them in respect of Network A last sale information under the CTA Plan.

2. Statutory Basis

The bases under the Act for the proposed rule change are the requirement under Section 6(b)(4) that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities and the requirements under Section 6(b)(5) that the rules of an exchange be designed to promote just and equitable principles of trade and not to permit unfair discrimination between customers, issuers, brokers or dealers.

The proposed rule change would benefit investors by providing a less expensive alternative to the last sale price information than the consolidated last sale price information that they receive under the CTA Plan. In addition, for that single lower fee, vendors receive Exchange prices for all Exchange-traded securities, something that differentiates

¹⁰ See Release Nos. 34-28407 (September 10, 1990), and 34-49185 (February 4, 2004).

⁶ See Regulation NMS Release, 70 FR at 37566–37567 (addressing differences in distribution standards between core data and non-core data).

⁷ NYSE ArcaBook Approval Order at pp 46–47.

⁸ Id at pp. 48–49.

⁹ Id at p 52.

the Exchange's product from pricing under the CTA Plan.

B. Self-Regulatory Organization's Statement on Burden on Competition

In proposing and adopting Regulation NMS, the Commission rescinded the prior prohibition on SROs from disseminating their trade reports independently,¹¹ subjecting that distribution to the "fair and reasonable" and "not unreasonably discriminatory" standards that have historically governed the distribution of consolidated data.¹² The Commission stated, "Given that * * * SROs will continue to transmit trades to the Networks pursuant to the Plans * * *, the Commission believe [sic] that SROs and their members also should be free to distribute their trades independently."¹³

The Commission rescinded the prohibition in recognition of the fact that competition in the realm of SRO trade-report distribution would produce market forces and innovation that would benefit the investing public. The NYSE ArcaBook Approval Order enforces this finding. By means of NYSE Arca Trades, the Exchange would provide vendors and broker-dealers with an alternative market data product and fee structure that does not exist today, without altering or rescinding any existing market data fees or products. If they believe that the proposed product and fee structure are useful and cost-effective to their business model, they will embrace them.

Given the existence of alternative products containing NYSE Arca last sale products, the Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has discussed this proposed rules change with those entities that the Exchange believes would be the most likely to take advantage of the proposed NYSE Arca Last Sale Information service by becoming NYSE Arca-Only Vendors. While those entities have not submitted formal, written comments on the proposal, the Exchange has incorporated some of their ideas into the proposal

and this proposed rule change reflects their input. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (a) by order approve such proposed rule change, or
- (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSEArca-2009-05 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2009-05. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the

provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2009-05 and should be submitted on or before February 24, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-2225 Filed 2-2-09; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59294; File No. SR-OCC-2008-20]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating To Establishing a Market Loan Program

January 23, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on December 23, 2008, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which items have been prepared primarily by OCC. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would create a framework for OCC to provide clearing services for stock loan and borrow transactions effected through electronic trading systems.

¹⁴ 17 CFR 200.30-3(a)(12).

¹⁵ 15 U.S.C. 78s(b)(1).

¹¹ See Rule 601 of Regulation NMS.

¹² See Rule 603(a) of regulation NMS.

¹³ See Footnote 638 to Regulation NMS (Release No. 34-51808; File No. S7-10-04) (June 9, 2005).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.²

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change is to revise OCC's By-Laws and Rules to create a framework ("Market Loan Program") that can accommodate securities lending transactions proposed to be executed through electronic trading systems ("Loan Markets"), such as the market to be operated by Automated Equity Finance Markets, Inc. ("AQS"), a wholly-owned subsidiary of Quadriserv, Inc. The relationship between OCC and AQS will be governed by the Agreement for Clearing and Settlement Services ("AQS Agreement") included as Exhibit 5 to Filing No. SR-OCC-2008-20.

Securities lending contributes to the overall liquidity and efficiency of the equity and equity options markets. For options market participants, securities lending supports market making, arbitrage trading, and equity financing and assists participants in meeting deliveries resulting from options exercises and assignments. OCC's Stock Loan/Hedge Program, which allows approved Clearing Members to register their privately negotiated securities lending transactions with OCC, benefits OCC's Clearing Members and the industry by reducing the cost of credit, increasing operational efficiency, and providing stability through a central counterparty guarantee. OCC believes that it is important to keep pace with innovations in the securities lending markets and therefore proposes to launch the Market Loan Program.

The bulk of the proposed changes are based on procedures and protections that OCC has utilized in the operation of the Stock Loan/Hedge Program, with necessary modifications to account for those aspects of the Market Loan Program that are different from the Stock Loan/Hedge Program. OCC

intends the provisions of its By-Laws and Rules governing the Market Loan Program and the provisions governing the Stock Loan/Hedge Program to be the same substantively except where differences were clearly intended or where the context requires a different interpretation. For example, under the Market Loan Program OCC would create a process by which it will accept anonymously matched stock loan transactions from a Loan Market and then send instructions to The Depository Trust Company ("DTC") to settle the transactions. In comparison, under the Stock Loan/Hedge Program OCC does not participate in a stock loan transaction until after two clearing members have transferred the securities and required collateral between themselves through the facilities of DTC. See below for a discussion of such differences.

B. Overview of the Proposed Market Loan Program

The Loan Market operated by AQS would be the first market supported by the proposed Market Loan Program. Additional markets that are operated in a manner similar to the AQS Loan Market could be included in the Market Loan Program in the future.

A Loan Market would provide a centralized source for price discovery and trade matching of stock loan transactions, for example, by implementing periodic auctions throughout the trading day. In the case of an auction-based market, participant lenders would provide the Loan Market with available inventory for auction, and participant borrowers would ordinarily compete on rebate rates with the lowest rate earning the trade. Lenders and borrowers would ordinarily be matched based on the Loan Market's trade-matching algorithm. A Loan Market could also provide, as does AQS, for submission of privately negotiated transactions for processing through the Loan Market, including clearance and settlement through OCC. Such transactions will not be separately identified to OCC and will be treated by OCC like any other matched loan transactions submitted by the Loan Market.

Clearing Members would need to meet certain requirements in order to be approved for participation in the Market Loan Program. For example, Clearing Members would need to be active subscribers to a Loan Market that is supported by the Market Loan Program. Clearing Members would also be required to set their "Receiver Authorized Delivery" ("RAD") Limits at DTC in respect of transactions with OCC

as the counterparty to the highest limit permitted under DTC rules.³ For tax-related reasons, OCC presently intends to permit only U.S. Clearing Members to participate in the Market Loan Program, at least initially. Clearing Members approved for participation in the Market Loan Program would be referred to as "Market Loan Clearing Members." When additional markets are included in the Market Loan Program in the future, a separate designation will be required for a Clearing Member's participation in each Loan Market.

The Loan Market would submit matched loan transactions to OCC for clearance and settlement. OCC would then conduct routine validation processes before passing electronic instructions to DTC to move securities and cash between the Market Loan Clearing Members' accounts at DTC. Because a Loan Market may, as does AQS, match lenders and borrowers on an anonymous basis, OCC and DTC would establish an account structure involving the transfer of securities and cash between the lender and the borrower through a DTC account owned by OCC ("OCC Account"), thereby permitting stock loan transactions originated through a Loan Market to be settled in a manner that preserves anonymity to both the lender and borrower.

Because OCC would substitute itself as the counterparty to all such DTC transactions, it is essential to OCC, from a risk management perspective, that there would never be a net settlement obligation against the OCC Account at the end of any day (*i.e.*, OCC's obligations with respect to all completed DTC transactions to which the OCC Account was a party should net to zero both with respect to securities and cash). Avoidance of any net settlement obligation is essential both because OCC has no mechanism for funding such settlement obligations and for other operational reasons. In order to provide reasonable assurance that OCC will have no net settlement obligations, DTC will implement procedures intended to ensure that if one side of a loan transaction does not settle, the other side will be blocked as well. In addition, under current DTC rules, a

³ The RAD Limit is a risk control mechanism which allows the DTC participant to set individual dollar limits against each contra participant so that deliveries with a settlement value exceeding the specified limit are not processed until the participant has reviewed and approved them. Clearing Members participating in the Market Loan Program are expected to comply with the requirement of setting their RAD Limits against OCC to the highest level permissible under DTC rules. However, DTC will not be asked to monitor or enforce this requirement.

² The Commission has modified parts of these statements.

DTC participant can return a delivery of securities ("Reclaim") to the original delivering party. DTC will block Reclaims against the OCC Account in order to prevent such Reclaims from resulting in a net settlement obligation in that account.⁴

Upon receiving the end of the day stock loan activity file from DTC showing settled stock loans (*i.e.*, transfer of the loaned securities against the specified collateral) originated through a Loan Market, OCC would perform additional validation processes to confirm that the transactions match the instructions given by OCC before affirmatively accepting settled stock loans and substituting itself as counterparty to these transactions (such as accepted stock loan transactions are defined as "Market Loans"). Upon OCC's acceptance of a Market Loan, the lending Market Loan Clearing Member would be a "Lending Clearing Member" and the borrowing Market Loan Clearing Member would be a "Borrowing Clearing Member" in respect of that Market Loan for all purposes of the By-Laws and Rules. Any stock loan transactions identified as originated through a Loan Market that are not ultimately confirmed and accepted by OCC would be rejected by OCC.

Upon acceptance of a Market Loan, OCC would create the stock loan position in the designated account of the Lending Clearing Member and the stock borrow position in the designated account of the Borrowing Clearing Member. Positions resulting from Market Loans would be maintained in the same manner as positions resulting from stock loans accepted by OCC under the Stock Loan/Hedge program (the latter are defined as "Hedge Loans" in the By-Laws and Rules⁵). However, positions resulting from Market Loans would be separately identified from, and would not be fungible with, positions resulting from Hedge Loans.

As with stock borrow or stock loan positions resulting from Hedge Loans, OCC would guarantee the daily mark-to-market payments generated by the open positions resulting from Market Loans. In addition, OCC would also provide a limited guaranty of payments in lieu of cash dividends and distributions

("dividend equivalent payments") and stock loan rebates, in each case limited to the amount for which the Corporation has collected margins from the responsible Market Loan Clearing Member(s) prior to the payment date. The amount of these payments would be calculated by the relevant Loan Market, and OCC would effect the payments only as instructed by the Loan Market. OCC would have no responsibility to verify the accuracy of the Loan Market's calculations and would not be liable to Clearing Members for any errors in such calculations. A Market Loan Clearing Member would be required to maintain margin with the Corporation in respect of any scheduled dividend equivalent payments and accrued rebate payments that such Clearing Member is obligated to make.

Termination of a Market Loan, in whole or in part, could be initiated by the Lending Clearing Member calling for the return of the loaned securities (a "recall"), or by the Borrowing Clearing Member indicating its intention to return the loaned securities (a "return"). The Loan Market would assign (randomly or by some other method) the recall to a participant who borrowed the same securities or the return to a participant who lent the same securities. Recalls/returns would be submitted to OCC and would be processed by OCC in the same manner as new stock loan transactions except that (i) the Loan Market would distinguish recalls/returns from new stock loan transactions; and (ii) if a recall/return were not settled by DTC and confirmed by OCC after a specified period of time, the Loan Market would instruct an independent broker to initiate the "buy-in" or "sell-out" process (described in more detail in Part C below), as applicable, in order to complete such recall/return.

A Loan Market would have the authority to direct OCC to terminate all or a portion of the outstanding Market Loans carried in the account(s) of a Clearing Member that were originated through that Loan Market. In addition, OCC would have the authority under Rule 305(a) to require a Clearing Member to reduce or eliminate stock loan or stock borrow positions, including positions resulting from Market Loans, upon a determination that circumstances warrant such action. In either case, OCC would give written notice to all affected Clearing Members specifying the date on which such termination would become effective. If any such termination were not settled by the specified time, the relevant Loan Market would instruct an independent broker to initiate the "buy-in" or "sell-

out" process, as applicable, in order to complete the termination. Any such buy-in or sell-out would be for the account and liability of OCC, which would in turn have rights against the defaulting Market Loan Clearing Member.

In the event that OCC, a Loan Market, or DTC suspends a Market Loan Clearing Member, OCC would not accept any settled stock loan transaction to which the suspended Clearing Member is a party as a Market Loan after the time at which the Clearing Member was suspended. Finally, OCC would take action under proposed Rule 2211A and Chapter XI of the rules to close out the open stock loan and stock borrow positions carried in the suspended Clearing Member's account(s), using the "buy-in" or "sell-out" process or exercising setoff rights as appropriate. Temporary hedging transactions would also be permitted under the Chapter XI rules.

If a Market Loan Clearing Member were to believe that a Market Loan was executed on such Clearing Member's behalf in error or that a material term of the loan was erroneous, the Clearing Member would contact the relevant Loan Market to seek correction. Every determination as to whether a Market Loan was entered into in error would be within the sole discretion of the relevant Loan Market and would not be subject to review by OCC. OCC would have no liability to Clearing Members for any action taken, or any delay or failure to take any action, in reasonable reliance on information that OCC receives from a Loan Market or DTC.

C. Proposed Changes to the By-Laws and Rules

In order to provide clearing services for Market Loans, OCC proposes to (i) add a new Article XXIA to the By-Laws and a new Chapter XXIIA to the Rules that would govern the clearance of Market Loans, (ii) introduce new terms and amend the definitions of existing terms, and (iii) amend a few other provisions of the By-Laws and Rules in connection with the introduction of Market Loans.

Changes in Terminology—Article I, Section 1; Article XXI, Section 1; Article XXIA, Section 1

In Article I, Section 1, OCC proposes to introduce the terms "Hedge Loan," "Loan Market," "Market Loan," "Market Loan Clearing Member" and "Market Loan Program." The definition of "Eligible Stock" would be amended so that it will be applicable to the Market Loan Program. OCC also proposes to amend the term "Stock Loan" to refer to

⁴ DTC filed a proposed rule change (File No. SR-DTC-2008-15) with the Commission to describe proposed changes in its rules for purposes of supporting the Market Loan Program that is being approved simultaneously with this proposed rule change.

⁵ OCC proposes to introduce the term "Hedge Loan" to refer to stock loans accepted by OCC under the Stock Loan/Hedge Program. OCC proposes to amend the term "Stock Loan" to mean either a "Hedge Loan" or a "Market Loan" or both as the context requires.

a Hedge Loan or a Market Loan or both, as the context requires, except that the term "Stock Loan" is redefined in Article XXI of the By-Laws so that, as used there and in Chapter XXII of the Rules, the term refers only to "Hedge Loans" and not to "Market Loans."

The terms "Borrowing Clearing Member" and "Lending Clearing Member" are amended to encompass Market Loan Clearing Members that borrow or lend Eligible Stocks in Market Loans. The terms "stock borrow position," and "stock loan position" will, where appropriate, apply to positions resulting from Market Loans without amendment.

In Article XXIA, Section 1, OCC proposes to introduce the terms "dividend equivalent payment," "recall" and "return." The terms "Collateral," "Loaned Stock," "mark-to-market payment" and "settlement price," which are defined in Article XXI in the context of the Stock Loan/Hedge Program, would be redefined in Article XXIA to reflect their specific application in the context of a Market Loan. Finally, OCC proposes to introduce the term "rebate," which refers to a periodic payment payable by the Lending Clearing Member or the Borrowing Clearing Member (depending on whether the rebate rate is positive or negative) in respect of a Market Loan.

Article XXI, Section 5

Paragraph (b) of Section 5 is being deleted to eliminate the existing requirement that a Clearing Member represent that the Loaned Stock does not constitute customer fully paid or excess margin securities. The Commission's Rule 15c3-3 requires a broker-dealer to maintain possession and control of customer fully-paid and excess margin securities. Paragraph (b)(3) of Rule 15c3-3 sets forth conditions (which include customer consent, provision of specified collateral to the customer, etc.) under which a broker-dealer may borrow fully paid or excess margin securities from customers for its own use without violating the rule's possession or control requirement. The deletion of paragraph (b) will maintain consistency between the existing Stock/Loan Hedge rules and the Market Loan rules, where no such representation is proposed to be required. Rules 2202(e) and 2202A(f) require Clearing Members to represent that each stock loan is in compliance with Rule 15c3-3 and other customer protection rules, and OCC believes that this representation is sufficient without further specificity.

Qualifications for Designation as a Market Loan Clearing Member—Article V, Section 1

Interpretation .03(e) of Article V, Section 1 would be amended to clarify that a Clearing Member must be approved as a Market Loan Clearing Member before it can participate in the Market Loan Program. OCC proposes to add a new interpretation .06A which will set out the conditions that a Clearing Member must meet in order to be approved as a Market Loan Clearing Member.

OCC's Role With Respect to Market Loans—Article XXIA, Section 2

Upon acceptance of a Market Loan, OCC's role with respect to such Market Loan would be that of a principal and OCC would have the position of borrower to the Lending Clearing Member and the position of lender to the Borrowing Clearing Member. All rights and/or obligations of a Clearing Member in respect of a Market Loan would be against OCC, including the right and/or obligation to receive or make mark-to-market payments, dividend equivalent payments, and rebate payments and to deliver or receive the Loaned Stock or Collateral.

Agreement of the Borrowing Clearing Member and the Lending Clearing Member in Respect of Market Loans—Article XXIA, Sections 3 and 4

Under Section 3, the Borrowing Clearing Member would represent that it would fulfill its obligations to OCC in respect of a Market Loan, including making required margin deposits, mark-to-market payments, dividend equivalent payments, rebate payments (in the case of a negative rebate), and delivering the Loaned Stock against Collateral upon the termination of the Market Loan, all in accordance with the By-Laws and Rules. The Lending Clearing Member would make reciprocal representations under Section 4.

Maintaining Stock Loan and Stock Borrow Positions Resulting From Market Loans in Accounts—Article XXIA, Section 5; Rule 2201A

Under Article XXIA, Section 5, upon the acceptance of a Market Loan, OCC would create the stock loan position in the Lending Clearing Member's designated account and the stock borrow position in the Borrowing Clearing Member's designated account. OCC would aggregate, separately for Market Loans effected through each Loan Market, all stock loan positions and stock borrow positions of a Clearing Member resulting from such Market

Loans relating to the same Eligible Stock for position reporting purposes and would also net all such stock loan positions against such stock borrow positions for purposes of determining the Clearing Member's margin obligations to OCC (referring to the margin that a Clearing Member would be required to be deposited with OCC to cover OCC's risk that the market might move against a stock loan position or a stock borrow position on any day and that the Clearing Member might fail before making the required mark-to-market payment to OCC on the next business day). Positions resulting from Market Loans would be maintained in Clearing Members' accounts in the same manner as positions resulting from Hedge Loans. However, OCC would separately identify stock loan and stock borrow positions resulting from Market Loans, and would not deem such positions to be fungible with positions resulting from Hedge Loans.

Rule 2201A would require each Market Loan Clearing Member to give OCC standing instructions in respect of Market Loans similar to the way in which Rule 2201 requires a Clearing Member participating in the Stock Loan/Hedge Program to give standing instructions in respect of Hedge Loans, the differences being that Rule 2201A: (i) Would not include any references to margin-ineligible accounts because all positions resulting from Market Loans would be carried on a fully margined basis⁶, (ii) would not require a Market Loan Clearing Member to specify the Collateral requirement that will be applicable to its stock loan positions because such requirement will be specified by the relevant Loan Market when it submits the matched trades to OCC, and (iii) would not include any references to stock loan baskets or stock borrow baskets because such concepts will not apply to positions resulting from Market Loans.

Initiation of Market Loans—Rule 2202A

As described in Part B above, a Market Loan would be initiated when the Loan Market submits a matched trade to OCC. If the matched trade passes OCC's validation processes, OCC would instruct DTC to effect the transfer of Eligible Stock against Collateral between the accounts of two Market Loan Clearing Members, provided that such transfers would flow through

⁶ The Commission has approved in a separate rule change OCC's proposal to eliminate Clearing Members' ability to carry stock loan and stock borrow positions on a margin-eligible basis. However, the proposal will not be fully implemented until February 1, 2009. See Securities Exchange Act Release 58901 (December 1, 2008).

OCC's account at DTC in order to maintain anonymity between the lender and borrower.

Only those settled stock loan transactions that are affirmatively accepted by OCC following receipt of the end-of-day stock loan activity file from DTC and OCC's validation processes would be deemed Market Loans. OCC would substitute itself as counterparty to the Borrowing Clearing Member and the Lending Clearing Member, respectively, in respect of each Market Loan. Any stock loan transactions purported to have originated through a Loan Market that are not accepted by OCC would be rejected by OCC and would have no further effect as regards OCC.

Paragraphs (d) and (e) of Rule 2202A would clarify the Lending Clearing Member's rights and obligations with respect to the Collateral posted and the Borrowing Clearing Member's rights and obligations with respect to the Loaned Stock. Under paragraph (f), a Market Loan Clearing Member would be required to represent to OCC that the Clearing Member's participation in each Market Loan is in compliance, and will continue to comply, with all applicable laws and regulations.

Margin Deposited With OCC in Respect of Market Loans—Rule 2203A

As mentioned in the description of proposed Article XXIA, Section 5 above, a Market Loan Clearing Member would be required to meet its margin obligations to OCC with respect to its stock loan and stock borrow positions resulting from Market Loans. Rule 2203A would reiterate this obligation and clarify that margin calculation shall be determined pursuant to Rule 601.

Mark-to-Market Payments in Respect of Market Loans—Rule 2204A

Rule 2204A would govern the calculation and payment of mark-to-market payments in respect of Market Loans. Using the same calculation method and collection/payment procedures that OCC practices with respect to Stock Loans, OCC would calculate on a daily basis the net amount owed by or to each Market Loan Clearing Member in respect of stock loan and stock borrow positions resulting from Market Loans carried in a Clearing Member's accounts and collect such net amount from, or deposit such net amount to, as applicable, the Clearing Member's designated bank account.

Daily Reports—Rule 2205A

As mentioned in the description of proposed Article XXIA, Section 5 above,

OCC would aggregate, separately for Market Loans effected through each Loan Market, all stock loan positions and stock borrow positions of a Clearing Member resulting from such Market Loans relating to the same Eligible Stock for position reporting purposes. Pursuant to Rule 2205A, OCC would make these position reports available to each Market Loan Clearing Member on a daily basis.

Dividends, Distributions and Rebates in Respect of Market Loans—Rule 2206A

Paragraph (a) of Rule 2206A would clarify that a Lending Clearing Member will be entitled to receive all dividends and distributions made in respect of Loaned Stock on the record dates that occur during the term of a Market Loan and the Borrowing Clearing Member will be obligated to pay or deliver all such dividends and distributions. Because a Market Loan Clearing Member generally would not know the identity of the counterparty to a Market Loan, the Loan Market and OCC would facilitate the payment of dividend equivalents between Market Loan Clearing Members. The Loan Market would be solely responsible for calculating the dividend equivalent amounts that each Market Loan Clearing Member is entitled to receive or obligated to pay. On the expected payment date, OCC would guarantee and effect such payments between Market Loan Clearing Members as instructed by the Loan Market, in each instance up to the amount for which the Corporation has collected margins from the responsible Market Loan Clearing Member(s) prior to the expected payment date. However, OCC would not be responsible for any errors in the Loan Market's calculations or instructions.

OCC would add non-cash dividends and distributions to the Loaned Stock and transfer them to the Lending Clearing Member upon termination of the Market Loan if OCC determines in its sole discretion that such transfer is legally permissible and can be made through DTC. The Loan Market could also determine to fix a cash settlement value with respect to any non-cash dividends and/or distributions that are not added to the Loaned Stock, in which case the Loan Market would instruct OCC to effect collection and payment of such cash settlement. With respect to any other non-cash dividend or distribution, the Lending Clearing Member would receive the benefit of the dividend or distribution only if it recalls the Loaned Stock in time to receive such dividend or distribution directly.

Paragraph (b) of Rule 2206A would govern the periodic payments of rebates

to Market Loan Clearing Members. As in the case of dividend equivalent payments, the Loan Market would be solely responsible for calculating the amount of rebate payments that each Market Loan Clearing Member is entitled to receive or obligated to pay. On the specified settlement date, OCC would guarantee and effect such payments and collections as instructed by the Loan Market, in each instance up to the amount for which the Corporation has collected margin from the responsible Market Loan Clearing Member(s) prior to the specified settlement date. Again, OCC would not be responsible for any errors in the Loan Market's calculations or instructions. Rebate payments would be paid on at least a monthly basis. If a Market Loan Clearing Member were to be suspended, OCC would have the discretion to accelerate settlement of accrued rebate payments with respect to such suspended Clearing Member.

Correction of Erroneous Market Loans—Rule 2207A

If a Market Loan Clearing Member were to believe that a Market Loan was executed on such Clearing Member's behalf in error or that a material term of the loan was erroneous, the remedy available to the Clearing Member would be to contact the relevant Loan Market to request correction. The decision to void a Market Loan would be in the Loan Market's sole discretion and would not be subject to review by OCC. Furthermore, interpretation .01 to Rule 2207A would clarify that in carrying out OCC's role with respect to Market Loans, OCC would be entitled to rely on information provided by a Loan Market or DTC and would not be liable to Clearing Members for any actions taken in reliance of such information.

Indemnification by Borrowing Clearing Member—Rule 2208A

Rule 2208A would require a Borrowing Clearing Member in respect of a Market Loan to indemnify, defend, and hold harmless OCC from any consequences resulting from the Borrowing Clearing Member's use of the Loaned Stock.

Termination of Market Loans—Rule 2209A

Rule 2209A would govern the different ways that a Market Loan may be terminated. In the case of a recall or a return that is the subject of paragraph (a) of Rule 2209A, the transaction would be submitted by the Loan Market to OCC and would be processed by OCC in basically the same manner as a new stock loan transaction. The Loan Market

would distinguish a recall/return from a new stock loan transaction so that upon OCC's confirmation that a recall/return was settled by DTC, OCC would extinguish the corresponding stock loan and stock borrow positions instead of creating new positions on its books.

If a recall fails to settle because the Borrowing Clearing Member fails to return the Loaned Stock within the timeframe specified in Rule 2209A, the relevant Loan Market would instruct an independent broker to initiate the "buy-in" process on the morning of the following stock loan business day. The broker would be instructed to purchase the Loaned Stock in a commercially reasonable manner as promptly as practicable (and in any event, at or prior to the time when a buy-in would be required under applicable regulatory requirements). The buy-in would be for OCC's account and liability because of OCC's role as the principal to each Market Loan.

The buy-in procedures are intended to facilitate compliance by the Clearing Member with buy-in requirements under applicable rules of the Commission and self-regulatory organizations, including the requirements imposed by Regulation SHO. The ultimate responsibility for compliance with Regulation SHO rests with the Clearing Member, and OCC would not be liable for any Clearing Member's failure to comply with its obligations.

The bought-in Loaned Stock would ultimately be delivered to the Lending Clearing Member's account at DTC in exchange for the Collateral. Any difference between (i) the amount of the Collateral and (ii) the price paid on the buy-in plus any other costs, fees or interest incurred by the broker in connection with such buy-in and any penalties or charges that the Loan Market may assess against the Borrowing Clearing Member would be credited to or debited from the Borrowing Clearing Member's designated bank account.

If a return fails to settle because the Lending Clearing Member fails to return the Collateral within the timeframe specified in Rule 2209A, the relevant Loan Market would instruct an independent broker to initiate the "sell-out" process on the morning of the following stock loan business day. The sell-out process is essentially the inverse of the buy-in process. The broker would be instructed to sell the Loaned Stock for OCC's account and liability. The sale proceeds would ultimately be delivered to the Borrowing Clearing Member's account at DTC against delivery of the Loaned Stock.

Any difference between (i) the sale proceeds and (ii) the amount of the Collateral plus any other costs, fees or interest incurred by the broker in connection with such sell-out, and any penalties or charges that the Loan Market may assess against the Lending Clearing Member would be credited to or collected from the Lending Clearing Member's designated bank account.

Paragraph (c) of Rule 2099A would provide that OCC would have the authority to terminate Market Loans in circumstances where a Loan Market so directs OCC or where OCC deems such action warranted. In either case, OCC would give written notice to all affected Clearing Members specifying the date on which such termination would become effective. As with a recall or a return, if a Market Loan termination initiated by a Loan Market or OCC fails to settle by the specified time set forth in paragraph (c), the relevant Loan Market would instruct an independent broker to initiate the "buy-in" or "sell-out" process, as applicable, in order to complete the termination.

Suspension of Market Loan Clearing Members—Rule 2210A and 2211A

Under Rule 2210A, OCC would not accept any stock loans to which the suspended Clearing Member is a party as a Market Loan after the time at which the Clearing Member was suspended, and would instruct DTC to unwind any such transaction. Open stock loan and stock borrows positions of the suspended Clearing Member would be liquidated in accordance with Rule 2211A by an independent broker designated by OCC for such purposes.

Collection of Fees and Charges on Behalf of a Loan Market—Rule 209

OCC proposes to amend paragraph (b) of Rule 209 so that OCC would have the authority to withdraw from a Market Clearing Member's bank account the amount of any fees or charges that the Clearing Member owes to a Loan Market.

Certain Conforming Changes in the By-Laws and Rules—Article XXI, Section 2 and 5; Rule 1103, 2201, 2202, 2204, 2205 and 2210

Sections 2 and 5 of Article XXI of the By-Laws and Rule 1103, 2201, 2202, 2204, 2205 and 2210 would be amended to conform to the new Market Loan rules as appropriate.

D. Summary of Certain Provisions of the AQS Agreement

In connection with providing clearing and settlement services to AQS, OCC will enter into the AQS Agreement,

which is similar in form to clearing agreements that OCC has entered into with futures markets. In addition to (i) defining each party's obligations in connection with the clearance and settlement of Market Loans, as discussed in Part B above, and (ii) identifying aspects of OCC's services that will be provided in accordance with the provisions of OCC's By-Laws and Rules, as discussed in Part C above, the AQS Agreement will set forth other terms and conditions that will govern the parties' relationship, including the following:

Regulatory Requirements

AQS will represent that (i) it will have obtained all necessary registrations, memberships, approvals or other consents that are required to have been obtained by it from any federal or state regulatory agencies or any self-regulatory organizations, (ii) it will have procedures (as amended from time to time, the "Market Procedures") that comply with the provisions of all applicable regulations and will have filed with the Commission the necessary information with respect to the Market Procedures, and (iii) it will have all requisite power and authority, whether arising under applicable federal or state law or the rules and regulations of any regulatory or self-regulatory organization to which AQS is subject, to enter into and perform its obligations under the AQS Agreement. OCC will make similar representations, and in addition will clarify that OCC's provision of clearing services in respect of Market Loans will depend on the Commission's approval of this proposed rule change.

AQS and OCC will each be required to notify the other party of any action taken by any regulatory body or agency that, in the judgment of the relevant party, has or will have a material adverse effect on such party's performance of its obligations under the AQS Agreement.

Fees for Clearing Services

OCC will establish fee structures for the services it performs for Clearing Members consistent with the provisions of its By-Laws. Fees charged to subscribers of AQS for services performed by OCC under the AQS Agreement shall not be greater than the fees charged by OCC in respect of substantially similar services performed for other markets in connection with Market Loan transactions; provided that OCC may offer alternative fee structures to such markets so long as it offers the same alternatives to AQS on substantially the same terms and so long

as the alternative fee structure provides for the equitable allocation of reasonable dues, fees, and other charges among Clearing Members.

Indemnification

AQS will indemnify and hold harmless OCC and each of its directors, officers, committee members, agents, employees and any person or entity who controls OCC (as the term "control" is defined in Rule 405 of the Securities Act of 1933, as amended) from and against any and all losses, damages, liabilities, judgments, claims, expenses and amounts incurred and/or paid in settlement (collectively referred to as "Losses") arising out of or based on (i) any violation or alleged violation by AQS of any of the terms of the AQS Agreement or (ii) any violation or alleged violation by AQS of any law (including patent infringement or other intellectual property law violation) or governmental regulation. OCC will indemnify and hold harmless AQS and each of its directors, officers, committee members, agents, employees and any person or entity who controls the Market from and against any and all Losses arising out of or based on (i) any violation or alleged violation by OCC of any of the terms of the AQS Agreement, (ii) any alleged default by OCC in performing its obligations in accordance with its By-Laws and Rules in respect of any Market Loans it has accepted for clearing, or (iii) any violation or alleged violation by OCC of any law (including patent infringement or other intellectual property law violation) or governmental regulation. The indemnifications provided by each party will include indemnification against any Losses arising out of or based on any allegation that any termination of a Market Loan transaction initiated by the indemnifying party was wrongful.

Term and Termination

The AQS Agreement may be terminated (i) by either party at any time upon giving a specified number of days' prior written notice to the other party, (ii) by a party upon giving notice to the other party if the other party has breached in any material respect the provisions of the AQS Agreement, or (iii) by OCC upon giving notice to AQS if, among other grounds, AQS has ceased to effect stock loan transactions or OCC's By-Laws or Rules have ceased to be in effect in a material respect. From the time that any notice of termination is given or any event of termination occurs until such time as all stock loan and borrow positions resulting from Market Loans have been closed or transferred to an alternative

clearing organization, OCC and AQS will continue to provide all services and perform all of their respective obligations under the AQS Agreement and OCC's By-Laws and Rules to the extent necessary or appropriate to service open stock loan and borrow positions. Finally, in the event of a voluntary termination of the AQS Agreement, OCC will use reasonable efforts to effect transfer of the open positions to AQS's successor clearing organization subject to reasonable agreements with such successor clearing organization, AQS and/or Clearing Members whose positions are being transferred, as appropriate, that protect the interests of OCC.

Dispute Resolution

If a dispute arises between AQS and OCC relating to the clearing services in respect of Market Loans, the AQS Agreement will provide that senior officers of AQS and OCC will endeavor in good faith to resolve the dispute and to mitigate its deleterious effects and will confer with each other to those ends.

Certain Loan Market Obligations

Schedule B of the AQS Agreement sets forth certain specific services that the Loan Market is required to perform to facilitate the performance by OCC of its obligations under its By-Laws and Rules. With respect to such obligations, the AQS Agreement provides that the Loan Market will be bound by the provisions of OCC's By-Laws and Rules to the extent that they impose obligations on the Market.

The proposed changes to OCC's Rules are consistent with the purposes and requirements of Section 17A of the Act because they are designed to promote the prompt and accurate clearance and settlement of stock loan transactions executed on an electronic marketplace, and to foster cooperation and coordination with persons engaged in the clearance and settlement of such transactions, to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of such transactions, and, in general, to protect investors and the public interest. The proposed rule change accomplishes these purposes by expanding the number of securities lending transactions that will be cleared and settled by OCC, which, in turn, benefits OCC's Clearing Members and the industry by reducing the cost of credit, increasing operational efficiency, and providing stability through a central counterparty guarantee by applying many of the same rules and procedures

to these transactions as OCC applies to the Hedge Loan transactions. The proposed rule change is not inconsistent with the existing rules of OCC, including any rules proposed to be amended.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of Section 17A(b)(3)(F).⁷ Section 17A(b)(3)(F) requires, among other things, that the rules of a clearing agency be designed to remove impediments to and perfect the mechanism for a national system for the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The proposed rule change is consistent with these requirements because while it allows OCC to expand its existing Stock Loan/Hedge Program to accommodate securities lending transactions executed through electronic trading systems, it addresses the differences between the Stock Loan/Hedge Program and the new Market Loan program by amending several provisions of OCC's Rules and entering into the AQS Agreement, both of which are designed to assure that OCC and its members comply with Commission rules and to reduce the risk of operational disruption or financial loss to OCC or to its members.

OCC has requested that the Commission approve this rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication of notice because by so approving, OCC may begin providing

⁷ 15 U.S.C. 78q-1(b)(3)(I).

clearing services for stock loan and borrow transactions effected through the AQS Loan Market in time for its anticipated launch date of January 31, 2008.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-OCC-2008-20 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-OCC-2008-20. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at http://www.theocc.com/publications/rules/proposed_changes/sr_occ_08_20.pdf. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File

Number SR-OCC-2008-20 and should be submitted on or before February 24, 2009.

V. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder applicable.⁸

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-OCC-2008-20) be, and hereby is, approved.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.⁹

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-2204 Filed 2-2-09; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11605 and #11606]

New Hampshire Disaster Number NH-00010

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of New Hampshire (FEMA-1812-DR), dated 01/02/2009.

Incident: Severe Winter Storm.

Incident Period: 12/11/2008 through 12/23/2008.

Effective Date: 01/23/2009.

Physical Loan Application Deadline Date: 03/03/2009.

Economic Injury (EIDL) Loan Application Deadline Date: 10/02/2009.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT:

A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit

⁸ In approving the proposed rule changes, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

⁹ 17 CFR 200.30-3(a)(12).

organizations in the State of NEW HAMPSHIRE, dated 01/02/2009, is hereby amended to establish the incident period for this disaster as beginning 12/11/2008 and continuing through 12/23/2008.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E9-2246 Filed 2-2-09; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

National Women's Business Council

Notice of Meeting

AGENCY: U.S. Small Business Administration.

ACTION: Notice of open Federal advisory committee meeting.

SUMMARY: The SBA is issuing this notice to announce the location, date, time, and agenda for the next meeting of the National Women's Business Council (NWBC). The meeting will be open to the public.

DATES: The meeting will be held on February 27, 2009 from approximately 8:30 a.m. to 12:30 p.m. est.

ADDRESSES: The meeting will be held at the U.S. Small Business Administration, 409 Third Street, SW., Eisenhower Conference Room, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), SBA announces the meeting of the National Women's Business Council. The National Women's Business Council is tasked with providing policy recommendations on issues of importance to women business owners to the President, Congress, and the SBA Administrator.

The purpose of the meeting is to introduce the NWBC's agenda and action items for fiscal year 2009 included but not limited to procurement, access to capital, access to training and technical assistance, and affordable health care. The topics to be discussed will include: the 2009 Women's Business Summit: *The Economy Through a Different Lens*; update on FY 2009 projects and budget; upcoming Town Hall Meeting on April 29, in Atlanta, GA and future town hall locations.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public however advance notice of attendance is requested. Anyone wishing to attend or make a presentation to the NWBC must contact Katherine Stanley by Friday, February 20, 2009, by fax or e-mail in order to be placed on the agenda. Katherine Stanley, Operations Manager, NWBC, 409 Third Street, SW., Suite 210, Washington, DC 20416, telephone 202-205-6695, fax 202-205-6825, e-mail Katherine.stanley@nwbc.gov.

Additionally, if you need accommodations because of a disability or require additional information, please contact Katherine Stanley at the above information.

For more information, please visit our Web site at www.nwbc.gov.

Bridget E. Bean,

SBA Committee Management Officer.

[FR Doc. E9-2245 Filed 2-2-09; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF STATE

[Public Notice: 6506]

Title: 30-Day Notice of Proposed Information Collection: Form DS-0071, Affidavit of Identifying Witness, 1405-0088

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Affidavit of Identifying Witness.
- *OMB Control Number:* 1405-0088.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Department of State, Bureau of Consular Affairs, Passport Services, Office of Field Operations, Field Coordination Division. CA/PPT/FO/FC.
- *Form Number:* DS-0071.
- *Respondents:* Individuals or Households.
- *Estimated Number of Respondents:* 163,300.
- *Estimated Number of Responses:* 163,300.
- *Average Hours per Response:* 5 minutes.
- *Total Estimated Burden:* 13,608 hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from February 3, 2009.

ADDRESSES: Direct comments and questions to Katherine Astrich, the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB), who may be reached at 202-395-4718. You may submit comments by any of the following methods:

- *E-mail:* kastrich@omb.eop.gov. You must include the DS form number, information collection title, and OMB control number in the subject line of your message.

- *Mail (paper, disk, or CD-ROM submissions):* Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503.

- *Fax:* 202-395-6974.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from Andrina Agnew, U.S. Department of State, CA/PPT/FO/FC, 2100 Pennsylvania Avenue, NW., Suite 3040, SA-29, Washington, DC 20037, who may be reached on (202) 663-2445 or at agnewam@state.gov.

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary to properly perform our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond.

Abstract of proposed collection: The Affidavit of Identifying Witness, Form DS-0071, is used by the Department of State in making a determination of the applicant's eligibility to be documented as a citizen or a non-citizen national of the United States. The form is used by Passport Agents, Acceptance Agents, and Consular Officers to collect information for the purpose of establishing the identity of a passport applicant who has not submitted adequate evidence with his/her passport application. The primary purpose for soliciting the information is to establish identity and eligibility for a United States passport, and to properly administer and enforce the laws pertaining to issuance thereof. Lack of identity information may result in the denial of an application for a United

States passport. Inaccurate identity evidence could possibly result in issuance of a passport to a non-U.S. citizen or to someone using an assumed identity.

Methodology: The Affidavit of Identifying Witness, Form DS-0071, is used in conjunction with the Application for a U.S. Passport, Form DS-0011. This affidavit is required to be included with a passport application only when the applicant for a passport is unable to establish his or her identity to the satisfaction of a person authorized to accept passport applications. The identifying witness must complete and sign this form in the presence of the person authorized to accept passport applications.

Dated: January 23, 2009.

Brenda S. Sprague,

Deputy Assistant Secretary for Passport Services, Bureau of Consular Affairs, Department of State.

[FR Doc. E9-2243 Filed 2-2-09; 8:45 am]

BILLING CODE 4710-06-P

DEPARTMENT OF STATE

[Public Notice: 6504]

Notice of Request for Public Comments

Title: 30-Day Notice of Proposed Information Collection: Form DS-0064, Statement Regarding a Lost or Stolen Passport, 1405-0014.

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Statement Regarding a Lost or Stolen Passport.
- *OMB Control Number:* 1405-0014.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* CA/PPT/FO/FC.
- *Form Number:* DS-0064.
- *Respondents:* Individuals or Households.
- *Estimated Number of Respondents:* 122,500.
- *Estimated Number of Responses:* 122,500.
- *Average Hours per Response:* 5 minutes.
- *Total Estimated Burden:* 10,208 hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Required to Obtain a Benefit.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from February 3, 2009.

ADDRESSES: Direct comments and questions to Katherine Astrich, the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB), who may be reached at 202-395-4718. You may submit comments by any of the following methods:

- *E-mail:* kastrich@omb.eop.gov. You must include the DS form number, information collection title, and OMB control number in the subject line of your message.

- *Mail (paper, disk, or CD-ROM submissions):* Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503.

- *Fax:* 202-395-6974

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from Andrina Agnew, U.S. Department of State, CA/PPT/FO/FC, 2100 Pennsylvania Ave., NW., Suite 3040, SA-29, Washington, DC 20037, who may be reached on 202-663-2445 or at agnewam@state.gov.

SUPPLEMENTARY INFORMATION:

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary to properly perform our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.

- Minimize the reporting burden on those who are to respond.

Abstract of proposed collection: The form is used prior to passport issuance and solicits information relating to the loss or theft of a valid U.S. passport. The information is used by the United States Department of State to ensure that no person shall bear more than one valid or potentially valid U.S. passport book and passport card at any one time, except as authorized by the Department, and is also used to combat passport fraud and misuse.

Methodology: This form is used in conjunction with the Form DS-11, Application for a U.S. Passport, or submitted separately to report loss or theft of a U.S. passport. Passport Services collects the information when a U.S. citizen or non-citizen national applies for a new U.S. passport and has been issued a previous, still valid U.S.

passport that has been lost or stolen, or when a passport holder independently reports it lost or stolen. Passport applicants can either download the form from the Internet or pick one up at any Passport Agency or Acceptance Facility.

Dated: January 23, 2009.

Brenda S. Sprague,

Deputy Assistant Secretary for Passport Services, Bureau of Consular Affairs, Department of State.

[FR Doc. E9-2256 Filed 2-2-09; 8:45 am]

BILLING CODE 4710-06-P

DEPARTMENT OF STATE

[Public Notice 6505]

Title: 30-Day Notice of Proposed Information Collection: Form DS-0086, Statement of Non-Receipt of a Passport, 1405-0146

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Statement of Non-Receipt of a Passport.
- *OMB Control Number:* 1405-0146.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Department of State, Bureau of Consular Affairs, Passport Services, Office of Field Operations, Field Coordination Division. CA/PPT/FO/FC.
- *Form Number:* DS-0086.
- *Respondents:* Individuals or Households.
- *Estimated Number of Respondents:* 27,400.
- *Estimated Number of Responses:* 27,400.
- *Average Hours per Response:* 5 minutes.
- *Total Estimated Burden:* 2,283 hours.
- *Frequency:* On occasion.

Obligation to Respond: Required to Obtain or Retain a Benefit.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from February 3, 2009.

ADDRESSES: Direct comments and questions to Katherine Astrich, the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB), who may be reached at 202-395-4718. You may submit comments by any of the following methods:

- *E-mail:* kastrich@omb.eop.gov. You must include the DS form number, information collection title, and OMB control number in the subject line of your message.

- *Mail (paper, disk, or CD-ROM submissions):* Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503.

- *Fax:* 202-395-6974.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from Andrina Agnew, U.S. Department of State, CA/PPT/FO/FC, 2100 Pennsylvania Avenue, NW., Suite 3040, SA-29, Washington, DC 20037, who may be reached on (202) 663-2445 or at agnewam@state.gov.

SUPPLEMENTARY INFORMATION:

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary to properly perform our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond.

Abstract of proposed collection: The Statement of Non-Receipt of a Passport, Form DS-0086, is used by Consular Officers, Passport Specialists, and Acceptance Agents to collect information for the purpose of issuing a second passport to customers who have not received the passport for which they originally applied.

The information is used by the Department of State to ensure that no person shall bear more than one valid or potentially valid U.S. passport book and U.S. passport card at any one time, except as authorized by the Department, and also aids in combating passport fraud and misuse.

Methodology: Passport applicants who do not receive their passports are required to complete a Statement of Non-Receipt of a Passport, Form DS-0086. Passport applicants can either download the form from the Internet or pick one up from an Acceptance Facility/Passport Agency. The form must be completed, signed, and then submitted to the Acceptance Facility/Passport Agency for passport re-issuance.

Dated: January 23, 2009.

Brenda S. Sprague,

Deputy Assistant Secretary for Passport Services, Bureau of Consular Affairs, Department of State.

[FR Doc. E9-2257 Filed 2-2-09; 8:45 am]

BILLING CODE 4710-06-P

DEPARTMENT OF STATE

[Public Notice 6507]

60-Day Notice of Proposed Information Collection: Form DS-7002, Training/ Internship Placement Plan, OMB Control Number 1405-0170

ACTION: Notice of request for public comments.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Exchange Visitor Program—Training/ Internship Placement Plan.
- *OMB Control Number:* 1405-0170.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Educational and Cultural Affairs, ECA/ EC.
- *Form Number:* Form DS-7002.
- *Respondents:* Entities designated by the Department of State as sponsors of exchange visitor programs in the trainee or intern categories and U.S. businesses that provide the training or internship opportunity.
- *Estimated Number of Respondents:* 160.
- *Estimated Number of Responses:* 30,000.
- *Average Hours per Response:* 1 hour.
- *Total Estimated Burden:* 30,000.
- *Frequency:* On occasion.
- *Obligation to Respond:* Required to Obtain Benefits.

DATES: The Department will accept comments from the public up to 60 days from February 3, 2009.

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

- Persons with access to the Internet may also view this notice and provide comments by going to the regulations.gov Web site at: <http://www.regulations.gov/index.cfm>.
- *Mail (paper, disk, or CD-ROM submissions):* U.S. Department of State,

Office of Exchange Coordination and Designation, SA-44, 301 4th Street, SW., Room 734, Washington, DC 20547

- *E-mail:* jexchanges@state.gov.

You must include the DS form number (if applicable), information collection title, and OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT:

Stanley S. Colvin, Deputy Assistant Secretary, Office of Private Sector Exchange, U.S. Department of State, SA-44, 301 4th Street, SW., Room 734, Washington, DC 20547; or e-mail at jexchanges@state.gov.

SUPPLEMENTARY INFORMATION:

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of proposed collection: The collection is the continuation of information collected and needed by the Bureau of Educational and Cultural Affairs in administering the Exchange Visitor Program (J-Visa) under the provisions of the Mutual Educational and Cultural Exchange Act, as amended. Trainee/Internship Placement Plans are to be completed by designated program sponsors. A Training/Internship Placement Plan is required for each trainee or intern participant. It will set forth the training or internship program to be followed and includes the skills the trainee or intern will obtain, whether the trainee or intern will receive any remuneration for housing and living expenses (and if so, the amount), and estimates of the living expenses and other costs the trainees or interns are likely to incur while in the United States. The plan must be signed by the trainee or intern, sponsor, and the third party placement organization, if a third party organization is used in the conduct of the training or internship.

Upon request, trainees or interns must present fully executed Trainee/ Internship Placement Plans on Form DS-7002 to any Consular Official interviewing them in connection with the issuance of J-1 visas.

Methodology: The collection will be submitted to the Department by mail or

fax as requested by DoS during the review of program sponsor files, redesignations, incidents, etc.

Dated: January 26, 2009.

Stanley S. Colvin,

Deputy Assistant Secretary, Office of Private Sector Exchange, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. E9-2258 Filed 2-2-09; 8:45 am]

BILLING CODE 4710-05-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Airports Grants Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. The FAA collects information from airport sponsors and planning agencies in order to administer the Airports Grants Program.

DATES: Please submit comments by April 6, 2009.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267-9895, or by e-mail at: Carla.Mauney@faa.gov.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Airports Grants Program.

Type of Request: Revision of an approved collection.

OMB Control Number: 2120-0569.

Form(s): Forms 5100-100, 5100-101, 5100-108, 5100-126, 5100-127, 5370-1.

Affected Public: A total of 1,950 Respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden Per Response: Approximately 8.5 hours per response.

Estimated Annual Burden Hours: An estimated 78,156 hours annually.

Abstract: The FAA collects information from airport sponsors and planning agencies in order to administer the Airports Grants Program. Data is used to determine eligibility, ensure proper use of Federal Funds, and ensure project accomplishments.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla

Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES-200, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on January 26, 2009.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES-200.

[FR Doc. E9-2202 Filed 2-2-09; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Meeting of the National Parks Overflights Advisory Group Aviation Rulemaking Committee

ACTION: Notice of meeting.

SUMMARY: The Federal Aviation Administration (FAA) and the National Park Service (NPS), in accordance with the National Parks Air Tour Management Act of 2000, announce the next meeting of the National Parks Overflights Advisory Group (NPOAG) Aviation Rulemaking Committee (ARC). This notification provides the date, format, and agenda for the meeting. *Dates and Location:* The NPOAG ARC will hold a meeting on February 25th, 2009. The meeting will be conducted as a telephone conference call. The meeting will be held from 9 a.m. to 12 p.m. Pacific Standard Time on February 25th. This NPOAG meeting will be open to the public. Interested persons may listen in on the conference call (see Public Participation at the Meeting)

FOR FURTHER INFORMATION CONTACT: Barry Brayer, AWP-1SP, Special Programs Staff, Federal Aviation Administration, Western-Pacific Region Headquarters, P.O. Box 92007, Los Angeles, CA 90009-2007, telephone: (310) 725-3800, e-mail: Barry.Brayer@faa.gov, or Vicki McCusker, National Park Service, Natural Sounds

Program, 1201 Oakridge Dr., Suite 100, Fort Collins, CO, 80525, telephone: (970) 267-2117, e-mail: Vicki_McCusker@nps.gov.

SUPPLEMENTARY INFORMATION:

Background

The National Parks Air Tour Management Act of 2000 (NPATMA), enacted on April 5, 2000, as Public Law 106-181, required the establishment of the NPOAG within one year after its enactment. The Act requires that the NPOAG be a balanced group of representatives of general aviation, commercial air tour operations, environmental concerns, and Native American tribes. The Administrator of the FAA and the Director of NPS (or their designees) serve as ex officio members of the group. Representatives of the Administrator and Director serve alternating 1-year terms as chairman of the advisory group.

The duties of the NPOAG include providing advice, information, and recommendations to the FAA Administrator and the NPS Director on: Implementation of Public Law 106 181; quiet aircraft technology; other measures that might accommodate interests to visitors of national parks; and at the request of the Administrator and the Director, on safety, environmental, and other issues related to commercial air tour operations over national parks or tribal lands.

Agenda for the February 25, 2009, NPOAG Meeting

The agenda for the meeting will include, but is not limited to, the following: Review of a Strategic Plan for the NPOAG, review and approval of the meeting minutes from the December 1, 2008 NPOAG telephone conference call meeting; discussion on the strawman for a competitive bidding process, and an update on ongoing Air Tour Management Plan (ATMP) program projects.

Public Participation for the Meeting

This NPOAG meeting will be conducted as a telephone conference call. Members of the public will be able to listen in on the proceedings. Information regarding how the public may access this conference call in a "listen mode" will be posted on the FAA's ATMP Web site (<http://www.atmp.faa.gov>) by February 10, 2009. Other supplementary meeting information may also be posted on the ATMP Web site.

Record of the Meeting

If you are unable to participate in this NPOAG meeting conference call, a

summary record of the meeting will be made available under the NPOAG section of the FAA's ATMP Web site at <http://www.atmp.faa.gov> or through the Special Programs Staff, Western-Pacific Region, Federal Aviation Administration, P.O. Box 92007, Los Angeles, CA 90009-2007, telephone (310) 725-3800.

Issued in Hawthorne, CA, on January 26, 2009.

Barry S. Brayer,

Manager, Special Programs Office, Western-Pacific Region.

[FR Doc. E9-2203 Filed 2-2-09; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-33 (Sub-No. 272X)]

Union Pacific Railroad Company— Abandonment Exemption—in Kootenai County, ID

On January 14, 2009, Union Pacific Railroad Company (UP) filed with the Surface Transportation 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 Coeur d'Alene Industrial Lead between milepost 7.5 near Gibbs, and the end of the line at milepost 8.79 near Coeur d'Alene, a distance of 1.29 miles in Kootenai County, ID.¹ The line traverses U.S. Postal Service Zip Code 83814, and includes no stations.

The line does not contain Federally granted rights-of-way. Any documentation in UP'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 May 4, 2009.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after

¹ According to UP, BNSF Railway Company (BNSF) holds trackage rights authority over the involved line. See *The Burlington Northern and Santa Fe Railway Company—Trackage Rights Exemption—Union Pacific Railroad Company*, STB Finance Docket No. 34436 (STB served Dec. 2, 2003). UP states that, in a subsequent filing, BNSF will seek Board authority to discontinue the trackage rights. UP adds that the Board should condition UP's exercise of the abandonment exemption sought here upon BNSF's obtaining authority to discontinue its trackage rights on the line.

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 February 23, 2009. Each trail use request must be accompanied by a \$200 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB-33 (Sub-No. 272X), and must be sent to: (1) Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001; and (2) Gabriel S. Meyer, 1400 Douglas St., STOP 1580, Omaha, NE 68179. Replies to UP's petition are due on or before February 23, 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: January 23, 2009.

By the Board, David M. Konschnik,
Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. E9-2105 Filed 1-30-09; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Release of Waybill Data

The Surface Transportation Board has received a request from Covington & Burlington on behalf of Union Pacific Corporation (WB468-10-1/5/09), for permission to use certain data from the Board's 2007 Carload Waybill Sample. A copy of the request may be obtained from the Office of Economics, Environmental Analysis, and Administration.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics, Environmental Analysis, and Administration within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

Contact: Scott Decker, (202) 245-0330.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. E9-2222 Filed 2-2-09; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designation of Entities Pursuant to Executive Order 12978

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control ("OFAC") is publishing the names of two newly-designated entities whose property and interests in property are blocked pursuant to Executive Order 12978 of October 21, 1995, "Blocking Assets and Prohibiting Transactions with Significant Narcotics Traffickers." In addition, OFAC is publishing changes to the identifying information associated with five persons previously designated pursuant to Executive Order 12978.

DATES: The designation by the Director of OFAC of the two entities identified in this notice pursuant to Executive Order 12978 is effective on January 28, 2009.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of

the Treasury, Washington, DC 20220, tel.: 202-622-2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (www.treas.gov/ofac) or via facsimile through a 24-hour fax-on demand service, tel.: (202) 622-0077.

Background

On October 21, 1995, the President, invoking the authority, *inter alia*, of the International Emergency Economic Powers Act (50 U.S.C. 1701-1706), issued Executive Order 12978 (60 FR 54579, October 24, 1995) (the "Order"). In the Order, the President declared a national emergency to deal with the threat posed by significant foreign narcotics traffickers centered in Colombia and the harm that they cause in the United States and abroad.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, or that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, of: (1) The persons listed in an Annex to the Order; (2) any foreign person determined by the Secretary of Treasury, in consultation with the Attorney General and Secretary of State: (a) To play a significant role in international narcotics trafficking centered in Colombia; or (b) to materially assist in, or provide financial or technological support for or goods or services in support of, the narcotics trafficking activities of persons designated in or pursuant to the Order; and (3) persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to be owned or controlled by, or to act for or on behalf of, persons designated pursuant to the Order.

On January 28, 2009, the Director of OFAC, in consultation with the Attorney General and Secretary of State, as well as the Secretary of Homeland Security, designated two entities whose property and interests in property are blocked pursuant to the Order.

The list of additional designees is as follows:

1. AQUILEA S.A., Carrera 21 No. 13B-21, Cali, Colombia; Carrera 21 No. 13B-33, Cali, Colombia; Carrera 23 No. 12-41, Cali, Colombia; NIT # 900061351-6 (Colombia); (ENTITY) [SDNT]
2. MEGAPLAST S.A., Calle 0 No. 2-276, Palmira, Valle, Colombia; NIT #

815002727-1 (Colombia); (ENTITY) [SDNT]

In addition, OFAC has made changes to the identifying information associated with the following five persons previously designated pursuant to the Order:

1. GIL RODRIGUEZ, Angela Maria, c/o AMPARO R. DE GIL Y CIA. S.C.S., Cali, Colombia; c/o DROBLAM S.A., Cali, Colombia; DOB 21 Feb 1980; Passport 52721666 (Colombia); Cedula No. 52721666 (Colombia); (INDIVIDUAL) [SDNT]

2. LOPEZ VALENCIA, Oscar Alberto, c/o FLEXOEMPAQUES LTDA., Cali, Colombia; c/o PLASTICOS CONDOR LTDA., Cali, Colombia; Carrera 6A No. 11-43 501-2, Cali, Colombia; DOB 30 Aug 1960; Cedula No. 10537943 (Colombia); (INDIVIDUAL) [SDNT]

3. RODRIGUEZ MONDRAGON, Humberto, c/o MAXITIENDAS TODO EN UNO, Cali, Colombia; c/o PENTA PHARMA DE COLOMBIA S.A., Bogota, Colombia; c/o RADIO UNIDAS FM S.A., Cali, Colombia; c/o RIONAP COMERCIO Y REPRESENTACIONES S.A., Quito, Ecuador; c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia; c/o GRACADAL S.A., Cali, Colombia; c/o INTERAMERICA DE CONSTRUCCIONES S.A., Cali, Colombia; c/o ANDINA DE CONSTRUCCIONES S.A., Cali, Colombia; c/o BLANCO PHARMA S.A., Bogota, Colombia; c/o DEPOSITO POPULAR DE DROGAS S.A., Cali, Colombia; c/o FARMATODO S.A., Bogota, Colombia; c/o MARELA DE RODRIGUEZ Y CIA. S. EN C., Cali, Colombia; c/o CLAUDIA PILAR RODRIGUEZ Y CIA. S.C.S., Bogota, Colombia; c/o D'CACHE S.A., Cali, Colombia; c/o INDUSTRIAL DE GESTION DE NEGOCIOS E.U., Cali, Colombia; c/o INVERSIONES MONDRAGON Y CIA. S.C.S., Cali, Colombia; c/o CREDIREBAJA S.A., Cali, Colombia; c/o ADMINISTRADORA DE SERVICIOS VARIOS CALIMA S.A., Cali, Colombia; c/o ASESORIAS PROFESIONALES ESPECIALIZADAS EN NEGOCIOS E.U., Cali, Colombia; c/o BONOMERCAD S.A., Bogota, Colombia; c/o CODISA, Bogota, Colombia; c/o COMERCIALIZADORA INTERTEL S.A., Cali, Colombia; c/o COPSERVIR LTDA., Bogota, Colombia; c/o COSMEPOP, Bogota, Colombia; c/o DECAFARMA S.A., Bogota, Colombia;

c/o DROCARD S.A., Bogota, Colombia; c/o FARMACOOOP, Bogota, Colombia; c/o DISTRIBUIDORA SANAR DE COLOMBIA S.A., Cali, Colombia; c/o FOGENSA S.A., Bogota, Colombia; c/o PROSALUD Y BIENESTAR S.A., Cali, Colombia; c/o REPRESENTACIONES Y DISTRIBUCIONES HUERTAS Y ASOCIADOS S.A., Bogota, Colombia; c/o VALORES CORPORATIVOS ESPANOLES S.L., Madrid, Spain; c/o FUNDASER, Cali, Colombia; c/o LATINFAMRACOS S.A., Quito, Ecuador; c/o ALERO S.A., Cali, Colombia; DOB 21 Jun 63; Cedula No. 16688683 (Colombia); Passport AD387757 (Colombia); Passport 16688683 (Colombia); (INDIVIDUAL) [SDNT]

4. RODRIGUEZ MONDRAGON, Jaime, c/o PLASTICOS CONDOR LTDA., Cali, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia; c/o FLEXOEMPAQUES LTDA., Cali, Colombia; c/o GRACADAL S.A., Cali, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o MARELA DE RODRIGUEZ Y CIA. S. EN C., Cali, Colombia; c/o PENTA PHARMA DE COLOMBIA S.A., Bogota, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o RIONAP COMERCIO Y REPRESENTACIONES S.A., Quito, Ecuador; c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o DEPOSITO POPULAR DE DROGAS S.A., Cali, Colombia; c/o FARMATODO S.A., Bogota, Colombia; c/o BLANCO PHARMA S.A., Bogota, Colombia; c/o CORPORACION DEPORTIVA AMERICA, Cali, Colombia; c/o D'CACHE S.A., Cali, Colombia; c/o INVERSIONES MONDRAGON Y CIA. S.C.S., Cali, Colombia; c/o CREDIREBAJA S.A., Cali, Colombia; c/o ASESORIAS DE INGENIERIA EMPRESA UNIPERSONAL, Cali, Colombia; c/o BONOMERCAD S.A., Bogota, Colombia; c/o DECAFARMA S.A., Bogota, Colombia; c/o DROCARD S.A., Bogota, Colombia; c/o INVERSIONES Y CONSTRUCCIONES COSMOVALLE LTDA., Cali, Colombia; c/o JAROMO INVERSIONES S.L., Madrid, Spain; c/o PROSPECTIVA EMPRESA UNIPERSONAL, Cali, Colombia; c/o REPRESENTACIONES Y DISTRIBUCIONES HUERTAS Y ASOCIADOS S.A., Bogota, Colombia; c/o SERVICIOS DE LA SABANA E.U., Bogota, Colombia; c/o FUNDASER, Cali, Colombia; c/o LATINFAMRACOS S.A., Quito, Ecuador; c/o ALERO S.A., Cali, Colombia; DOB 30 Mar 1960; Cedula

No. 16637592 (Colombia); Passport AE426347 (Colombia); Passport 16637592 (Colombia); N.I.E. x2641093-A (Spain); (INDIVIDUAL) [SDNT]

5. RODRIGUEZ OREJUELA DE GIL, Amparo, c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o CREACIONES DEPORTIVAS WILLINGTON LTDA., Cali, Colombia; c/o DEPOSITO POPULAR DE DROGAS S.A., Cali, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia; c/o BLANCO PHARMA S.A., Bogota, Colombia; c/o RADIO UNIDAS FM S.A., Cali, Colombia; c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o CORPORACION DEPORTIVA AMERICA, Cali, Colombia; c/o D'CACHE S.A., Cali, Colombia; c/o DROBLAM S.A., Cali, Colombia; DOB 13 Mar 49; Cedula No. 31218703 (Colombia); Passport AC342062 (Colombia); (INDIVIDUAL) [SDNT]

The listings now appear as the following:

1. GIL RODRIGUEZ, Angela Maria, c/o AMPARO R. DE GIL Y CIA. S.C.S., Cali, Colombia; c/o DROBLAM S.A., Cali, Colombia; c/o AQUILEA S.A., Cali, Colombia; DOB 21 Feb 1980; Passport 52721666 (Colombia); Cedula No. 52721666 (Colombia); (INDIVIDUAL) [SDNT]

2. LOPEZ VALENCIA, Oscar Alberto, c/o FLEXOEMPAQUES LTDA., Cali, Colombia; c/o PLASTICOS CONDOR LTDA., Cali, Colombia; c/o MEGAPLAST S.A., Palmira, Valle, Colombia; Carrera 6A No. 11-43 501-2, Cali, Colombia; DOB 30 Aug 1960; Cedula No. 10537943 (Colombia); (INDIVIDUAL) [SDNT]

3. RODRIGUEZ MONDRAGON, Humberto, c/o MAXITIENDAS TODO EN UNO, Cali, Colombia; c/o PENTA PHARMA DE COLOMBIA S.A., Bogota, Colombia; c/o RADIO UNIDAS FM S.A., Cali, Colombia; c/o RIONAP COMERCIO Y REPRESENTACIONES S.A., Quito, Ecuador; c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia; c/o GRACADAL S.A., Cali, Colombia; c/o INTERAMERICA DE CONSTRUCCIONES S.A., Cali, Colombia; c/o ANDINA DE CONSTRUCCIONES S.A., Cali, Colombia; c/o BLANCO PHARMA S.A., Bogota, Colombia; c/o DEPOSITO

POPULAR DE DROGAS S.A., Cali, Colombia; c/o FARMATODO S.A., Bogota, Colombia; c/o MARIELA DE RODRIGUEZ Y CIA. S. EN C., Cali, Colombia; c/o CLAUDIA PILAR RODRIGUEZ Y CIA. S.C.S., Bogota, Colombia; c/o D'CACHE S.A., Cali, Colombia; c/o INDUSTRIAL DE GESTION DE NEGOCIOS E.U., Cali, Colombia; c/o INVERSIONES MONDRAGON Y CIA. S.C.S., Cali, Colombia; c/o CREDIREBAJA S.A., Cali, Colombia; c/o ADMINISTRADORA DE SERVICIOS VARIOS CALIMA S.A., Cali, Colombia; c/o ASESORIAS PROFESIONALES ESPECIALIZADAS EN NEGOCIOS E.U., Cali, Colombia; c/o BONOMERCAD S.A., Bogota, Colombia; c/o CODISA, Bogota, Colombia; c/o COMERCIALIZADORA INTERTEL S.A., Cali, Colombia; c/o COPSERVIR LTDA., Bogota, Colombia; c/o COSMEPOP, Bogota, Colombia; c/o DECAFARMA S.A., Bogota, Colombia; c/o DROCARD S.A., Bogota, Colombia; c/o FARMACOOOP, Bogota, Colombia; c/o DISTRIBUIDORA SANAR DE COLOMBIA S.A., Cali, Colombia; c/o FOGENSA S.A., Bogota, Colombia; c/o PROSALUD Y BIENESTAR S.A., Cali, Colombia; c/o REPRESENTACIONES Y DISTRIBUCIONES HUERTAS Y ASOCIADOS S.A., Bogota, Colombia; c/o VALORES CORPORATIVOS ESPANOL S.L., Madrid, Spain; c/o FUNDASER, Cali, Colombia; c/o LATINFAMRACOS S.A., Quito, Ecuador; c/o ALERO S.A., Cali, Colombia; c/o MEGAPLAST S.A., Palmira, Valle, Colombia; DOB 21 Jun 63; Cedula No. 16688683 (Colombia); Passport AD387757 (Colombia); Passport 16688683 (Colombia); (INDIVIDUAL) [SDNT]

4. RODRIGUEZ MONDRAGON, Jaime, c/o PLASTICOS CONDOR LTDA., Cali, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia; c/o FLEXOEMPAQUES LTDA., Cali, Colombia; c/o GRACADAL S.A., Cali, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o MARIELA DE RODRIGUEZ Y CIA. S. EN C., Cali, Colombia; c/o PENTA PHARMA DE COLOMBIA S.A., Bogota, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o RIONAP COMERCIO Y REPRESENTACIONES S.A., Quito, Ecuador; c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o DEPOSITO POPULAR DE DROGAS S.A., Cali, Colombia; c/o FARMATODO S.A., Bogota, Colombia; c/o BLANCO

PHARMA S.A., Bogota, Colombia; c/o CORPORACION DEPORTIVA AMERICA, Cali, Colombia; c/o D'CACHE S.A., Cali, Colombia; c/o INVERSIONES MONDRAGON Y CIA. S.C.S., Cali, Colombia; c/o CREDIREBAJA S.A., Cali, Colombia; c/o ASESORIAS DE INGENIERIA EMPRESA UNIPERSONAL, Cali, Colombia; c/o BONOMERCAD S.A., Bogota, Colombia; c/o DECAFARMA S.A., Bogota, Colombia; c/o DROCARD S.A., Bogota, Colombia; c/o INVERSIONES Y CONSTRUCCIONES COSMOVALLE LTDA., Cali, Colombia; c/o JAROMO INVERSIONES S.L., Madrid, Spain; c/o PROSPECTIVA EMPRESA UNIPERSONAL, Cali, Colombia; c/o REPRESENTACIONES Y DISTRIBUCIONES HUERTAS Y ASOCIADOS S.A., Bogota, Colombia; c/o SERVICIOS DE LA SABANA E.U., Bogota, Colombia; c/o FUNDASER, Cali, Colombia; c/o LATINFAMRACOS S.A., Quito, Ecuador; c/o ALERO S.A., Cali, Colombia; c/o MEGAPLAST S.A., Palmira, Valle, Colombia; DOB 30 Mar 1960; Cedula No. 16637592 (Colombia); Passport AE426347 (Colombia); Passport 16637592 (Colombia); N.I.E. x2641093-A (Spain); (INDIVIDUAL) [SDNT]

5. RODRIGUEZ OREJUELA DE GIL, Amparo, c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o CREACIONES DEPORTIVAS WILLINGTON LTDA., Cali, Colombia; c/o DEPOSITO POPULAR DE DROGAS S.A., Cali, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia; c/o BLANCO PHARMA S.A., Bogota, Colombia; c/o RADIO UNIDAS FM S.A., Cali, Colombia; c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o CORPORACION DEPORTIVA AMERICA, Cali, Colombia; c/o D'CACHE S.A., Cali, Colombia; c/o DROBLAM S.A., Cali, Colombia; c/o AQUILEA S.A., Cali, Colombia; DOB 13 Mar 49; Cedula No. 31218703 (Colombia); Passport AC342062 (Colombia); (INDIVIDUAL) [SDNT]

Dated: January 28, 2009.

Adam J. Szubin,

Director, Office of Foreign Assets Control.
[FR Doc. E9-2267 Filed 2-2-09; 8:45 am]

BILLING CODE 4811-45-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0669]

Agency Information Collection (Claim for Credit of Annual Leave) Activities Under OMB Review

AGENCY: Human Resources Management, 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 Office of Management (OM), Department of Veterans Affairs, has submitted 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 it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 5, 2009.

ADDRESSES: Submit written comments on the collection of information through 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. 2900-0669" in any correspondence.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION 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. 2900-0669."

SUPPLEMENTARY INFORMATION:

Title: Claim for Credit of Annual Leave, VA Form 0862.

OMB Control Number: 2900-0669.

Type of Review: Extension of a currently approved collection.

Abstract: Current and former employee's who were charged annual leave on a non workday while on active military duty complete VA Form 0862 to request restoration of annual leave. Those employees who separated or retired from VA will receive a lump sum payment for any reaccredited annual leave. The claimant must provide documentation supporting the period that he or she were on active military duty during the time for which they were charged annual leave on a non workday.

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 November 26, 2008, at page 72116.

Affected Public: Individuals or households and Federal Government.

Estimated Annual Burden: 3,375 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 13,501.

Dated: January 27, 2009.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.
[FR Doc. E9-2259 Filed 2-2-09; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0688]

Agency Information Collection (Procedures, and Security for Government Financing) Activities Under OMB Review

AGENCY: Office of Management, 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 Office of Management (OM), Department of Veterans Affairs, has submitted 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; it includes the actual data collection instrument.

DATE: Comments must be submitted on or before March 5, 2009.

ADDRESSES: Submit written comments on the collection of information through 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. 2900-0688" in any correspondence.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION 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. 2900-0688."

SUPPLEMENTARY INFORMATION:

Titles:

a. Department of Veterans Affairs Acquisition Regulation (VAAR) 832.006-4, Procedures.

b. Department of Veterans Affairs Acquisition Regulation (VAAR) 832.202-4, Security for Government Financing.

OMB Control Number: 2900-0688.

Type of Review: Extension of a currently approved collection.

Abstract: Data collected under VAAR 832.006-4 will be used to assess a contractor's overall financial condition, and ability to continue contract performance if payments are reduced or suspended upon a finding of fraud. VA will use the data collected under VAAR 832.202-4 to determine whether or not a contractor has adequate security to warrant an advance payment.

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 November 26, 2008 at pages 72116-72117.

Affected Public: Businesses or other for-profits.

Estimated Annual Burden:

a. VAAR 832.006-4, Procedures—50 hours

b. VAAR 832.202-4, Security for Government Financing—10 hours.

Estimated Average Burden per Respondent:

a. VAAR 832.006-4, Procedures—5 hours.

b. VAAR 832.202-4, Security for Government Financing—1 hour.

Frequency of Response: On occasion.

Estimated Number of Respondents:

a. VAAR 832.006-4, Procedures—10.

VAAR 832.202-4, Security for Government Financing—10.

Dated: January 27, 2009.

By direction of the Secretary:

Denise McLamb,

Program Analyst, Enterprise Records Service.
[FR Doc. E9-2261 Filed 2-2-09; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Gulf War Veterans; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92-

463 (Federal Advisory Committee Act) that the Advisory Committee on Gulf War Veterans will hold a meeting on February 18-19, 2009, in Room 1C182 at the Atlanta VA Medical Center, 1670 Clairmont Road, Decatur, Georgia, from 9 a.m. to 5 p.m. each day. The meeting is open to the public.

The purpose of the Committee is to provide advice and recommendations to the Secretary of Veterans Affairs on issues that are unique to veterans who served in the Southwest Asian theater of operations during 1990-1991 period of the Gulf War.

On February 18, the Committee will receive briefings from VA's healthcare and benefits staff, a member from the Centers for Disease Control and members of the Fort McPherson U.S. Army Reserve Command. On February 19, the Committee will receive briefings from representatives from Georgia, Alabama, and South Carolina Departments of Veterans Affairs. In the afternoon, the Committee will meet with a panel of Gulf War veterans living in the Atlanta area who served in the Southwest Asia theater of operations during 1990-1991.

Veterans wishing to be panel participants should contact Lelia Jackson at (202) 461-5758 or via e-mail at lelia.jackson@va.gov. Additional public comments will be received from 1 p.m. until 1:30 p.m. Individuals wishing to speak must register not later than February 13, by contacting Ms. Jackson and by submitting 1-2 page summaries of their comments for inclusion in the official record. Public comments will be limited to five minutes each. A sign-in sheet will be available. Members of the public may also submit written statements for the Committee's review to the Advisory Committee on Gulf War Veterans, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

Interested parties may also listen in by teleconferencing into the meeting. The toll-free teleconference line will be open from 9 a.m. until 5 p.m. each day. To register for the teleconference, please contact Ms. Jackson at (202) 461-5758 or via e-mail at lelia.jackson@va.gov by February 13, 2009.

Any member of the public seeking additional information should contact Laura O'Shea, Designated Federal Officer, at (202) 461-5765.

Dated: January 27, 2009.

E. Philip Riggan,

Committee Management Officer.

[FR Doc. E9-2248 Filed 2-2-09; 8:45 am]

BILLING CODE 8320-01-P



Federal Register

**Tuesday,
February 3, 2009**

Part II

The President

**Memorandum of January 30, 2009—
Regulatory Review**

**Memorandum of January 30, 2009—White
House Task Force on Middle-Class
Working Families**

Presidential Documents

Title 3—

Memorandum of January 30, 2009

The President

Regulatory Review

Memorandum for the Heads of Executive Departments and Agencies

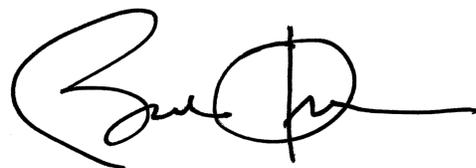
For well over two decades, the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB) has reviewed Federal regulations. The purposes of such review have been to ensure consistency with Presidential priorities, to coordinate regulatory policy, and to offer a dispassionate and analytical “second opinion” on agency actions. I strongly believe that regulations are critical to protecting public health, safety, our shared resources, and our economic opportunities and security. While recognizing the expertise and authority of executive branch departments and agencies, I also believe that, if properly conducted, centralized review is both legitimate and appropriate as a means of promoting regulatory goals.

The fundamental principles and structures governing contemporary regulatory review were set out in Executive Order 12866 of September 30, 1993. A great deal has been learned since that time. Far more is now known about regulation—not only about when it is justified, but also about what works and what does not. Far more is also known about the uses of a variety of regulatory tools such as warnings, disclosure requirements, public education, and economic incentives. Years of experience have also provided lessons about how to improve the process of regulatory review. In this time of fundamental transformation, that process—and the principles governing regulation in general—should be revisited.

I therefore direct the Director of OMB, in consultation with representatives of regulatory agencies, as appropriate, to produce within 100 days a set of recommendations for a new Executive Order on Federal regulatory review. Among other things, the recommendations should offer suggestions for the relationship between OIRA and the agencies; provide guidance on disclosure and transparency; encourage public participation in agency regulatory processes; offer suggestions on the role of cost-benefit analysis; address the role of distributional considerations, fairness, and concern for the interests of future generations; identify methods of ensuring that regulatory review does not produce undue delay; clarify the role of the behavioral sciences in formulating regulatory policy; and identify the best tools for achieving public goals through the regulatory process.

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Director of OMB is hereby authorized and directed to publish this memorandum in the *Federal Register*.

A handwritten signature in black ink, appearing to be "George W. Bush", written in a cursive style.

THE WHITE HOUSE,
Washington, January 30, 2009

[FR Doc. E9-2434
Filed 2-2-09; 11:15 am]
Billing code 3110-01-P

Presidential Documents

Memorandum of January 30, 2009

White House Task Force on Middle-Class Working Families

Memorandum for the Heads of Executive Departments and Agencies

For many years, middle-class Americans have been working harder, yet not enjoying their fair share of the fruits of a growing economy. While the productivity of the American workforce grew during the decade ending in 2007, middle-income workers saw their real incomes fall. The current economic situation has exacerbated the challenges facing middle-class Americans, with health care coverage, safe and steady employment opportunities, effective and affordable education, owning a home, and saving for retirement slipping out of reach. It is a high priority of my Administration to achieve a secure future for middle-class working families, one in which they share in prosperous times and are cushioned during hard times. To these ends, I hereby direct the following:

Section 1. *White House Task Force on Middle-Class Working Families.* There is established within the Office of the Vice President, a White House Task Force on Middle-Class Working Families (Task Force) to focus on raising the living standards of middle-class working families in the United States of America. The Vice President shall serve as Chair of the Task Force.

(a) **Membership of the Task Force.** In addition to the Vice President, the Task Force shall consist exclusively of the heads of the executive branch departments, agencies, and offices listed below:

- (1) the Department of Commerce;
- (2) the Department of Labor;
- (3) the Department of Health and Human Services;
- (4) the Department of Education;
- (5) the Office of Management and Budget;
- (6) the National Economic Council;
- (7) the Domestic Policy Council;
- (8) the Council of Economic Advisers; and

(9) such other executive branch departments, agencies, or offices as the President may designate.

A member of the Task Force may designate, to perform the Task Force functions of the member, any person who is a part of the member's department, agency, or office, and who is a full-time officer or employee of the Federal Government. At the direction of the Chair, the Task Force may establish subgroups consisting exclusively of Task Force members or their designees under this section, as appropriate.

(b) **Administration of the Task Force.** The Department of Labor shall provide funding and administrative support for the Task Force to the extent permitted by law and within existing appropriations. The Vice President shall designate an Executive Director of the Task Force, who shall coordinate the work of the Task Force.

Sec. 2. *Mission and Functions of the Task Force.* The Task Force shall work with a wide array of executive departments and agencies that have responsibility for key issues facing middle-class working families, expedite

administrative reforms, propose Executive Orders, and develop legislative and policy proposals that can be of special importance to middle-class working families. The functions of the Task Force are advisory only and shall include, but shall not be limited to, producing a detailed set of recommendations to:

- (a) expand education and lifelong training opportunities;
- (b) improve work and family balance;
- (c) restore labor standards, including workplace safety;
- (d) protect the incomes of middle-class working families; and
- (e) protect retirement security.

Sec. 3. *Outreach.* Consistent with the objectives set out in section 2 of this memorandum, the Task Force, in accordance with applicable law, in addition to regular meetings, shall conduct outreach with representatives of labor, business, nonprofit organizations, State and local government agencies, and other interested persons that will assist with the Task Force's development of a detailed set of recommendations.

Sec. 4. *Transparency and Reports.* The Task Force shall facilitate the posting on the Internet of submissions by outside parties and engage in an open, two-way dialogue with the American people. The Task Force shall present to the President annual reports, beginning 1 year from the date of this memorandum, on its findings and recommendations, which shall be made available to the public and posted on the Internet.

Sec. 5. *General Provisions.* (a) The heads of executive departments and agencies shall assist and provide information to the Task Force, consistent with applicable law, as may be necessary to carry out the functions of the Task Force. Each executive department and agency shall bear its own expense for participating in the Task Force.

(b) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) authority granted by law to an executive department, agency, or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Sec. 6. *Publication.* The Secretary of Labor is authorized and directed to publish this memorandum in the *Federal Register*.

A handwritten signature in black ink, appearing to be "Barack Obama", written in a cursive style. The signature is positioned to the right of the text above.

THE WHITE HOUSE,
Washington, January 30, 2009

[FR Doc. E9-2436
Filed 2-2-09; 11:15 am]
Billing code 4510-23-P

Reader Aids

Federal Register

Vol. 74, No. 21

Tuesday, February 3, 2009

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	202-741-6000
Laws	741-6000
Presidential Documents	
Executive orders and proclamations	741-6000
The United States Government Manual	741-6000
Other Services	
Electronic and on-line services (voice)	741-6020
Privacy Act Compilation	741-6064
Public Laws Update Service (numbers, dates, etc.)	741-6043
TTY for the deaf-and-hard-of-hearing	741-6086

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: <http://www.gpoaccess.gov/nara/index.html>

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: http://www.archives.gov/federal_register

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to <http://listserv.access.gpo.gov> and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings)*; then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to <http://listserv.gsa.gov/archives/publaws-l.html> and select *Join or leave the list (or change settings)*; then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: fedreg.info@nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

Reminders. Effective January 1, 2009, the Reminders, including Rules Going Into Effect and Comments Due Next Week, no longer appear in the Reader Aids section of the Federal Register. This information can be found online at <http://www.regulations.gov>.

CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at <http://bookstore.gpo.gov/>.

FEDERAL REGISTER PAGES AND DATE, FEBRUARY

5797-5898	2
5899-5982	3

CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Memorandums:	
Memo. of 1/30/2009	5977
Memo. of 1/30/2009	5979

8 CFR

274a	5899
------	------

10 CFR

Ch. 1	5797
-------	------

12 CFR

360	5797
-----	------

Proposed Rules:

337	5904
-----	------

16 CFR

Proposed Rules:

255	5810
-----	------

20 CFR

404	5807
-----	------

22 CFR

215	5808
-----	------

29 CFR

403	5899
408	5899

40 CFR

112	5900
-----	------

42 CFR

440	5808
-----	------

50 CFR

Proposed Rules:

17	5908
----	------

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 "PLUS" (Public Laws Update Service) on 202-741-6043. This list is also available online at <http://www.archives.gov/federal-register/laws.html>.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-512-1808). The text will also be made available on the Internet from GPO Access at <http://www.gpoaccess.gov/plaws/index.html>. Some laws may not yet be available.

S. 181/P.L. 111-2

Lilly Ledbetter Fair Pay Act of 2009 (Jan. 29, 2009; 123 Stat. 5)

Last List January 21, 2009

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly

enacted public laws. To subscribe, go to <http://listserv.gsa.gov/archives/publaws-l.html>

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.