Federal Register

2–4–09 Wednesday
Vol. 74 No. 22 Feb. 4, 2009

Pages 5983–6116

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

Printed on recycled paper.

Contents

Federal Register

Vol. 74, No. 22

Wednesday, February 4, 2009

Centers for Disease Control and Prevention
NOTICES
Meetings:
Correction; Disease, Disability, and Injury Prevention and Control Special Emphasis Panel; Autism Therapy, etc., 6041
Task Force on Community Preventive Services, 6041–6042

Children and Families Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 6042

Coast Guard
RULES
Drawbridge Operation Regulations:
Atlantic Intracoastal Waterway (AIWW), Elizabeth River, Southern Branch, VA, Maintenance, 5986–5987
Upper Mississippi River, Dubuque, IA, 5983–5984
Upper Mississippi River, Keokuk, IA, Activity Identifier; Repair and Maintenance, 5984
Willamette River, Portland, OR, Schedule Change, 5984–5986
Gasco Regulated Navigation Area, Willamette River, Portland, OR, 5987–5989
McCormick & Baxter Regulated Navigation Area, Willamette River, Portland, OR, 5989–5991
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 6044–6046

Commerce Department
See Foreign–Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 6012

Drug Enforcement Administration
NOTICES
Denial of Application:
Ladapo O. Shyngle, M.D., 6056–6059
Registration Revocations:
Foothills Family Pharmacy (Boulder) and Foothills Family Pharmacy (Lafayette), 6059–6060

Employee Benefits Security Administration
PROPOSED RULES
Investment Advice–Participants and Beneficiaries, 6007–6008

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Meetings:
Biological and Environmental Research Advisory Committee, 6017–6018
Hydrogen and Fuel Cell Technical Advisory Committee (HTAC), 6018

Environmental Protection Agency
RULES
Final Authorization of State Hazardous Waste Management Program Revision:
Oklahoma, 5994–6001
Procedures for Implementing the National Environmental Policy Act and Assessing the Environmental Effects Abroad of EPA Actions, 5991–5994
PROPOSED RULES
Final Authorization of State Hazardous Waste Management Program Revisions:
Oklahoma, 6010
Procedures for Implementing the National Environmental Policy Act and Assessing the Environmental Effects Abroad of EPA Actions, 6008–6010
NOTICES
Consent Decree:
Environmental Integrity Project, et al. v. Johnson, 6028–6031
Pesticide Experimental Use Permit; Receipt of Amendment/Extension Application; Comment Request, 6031–6032
Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as Amended:
Atlas Iron and Metal Site, 6032
Request for Nominations of Experts for EPA Science Advisory Board; Scientific and Technological Achievement Awards Committee, 6033–6034
Underground Injection Control Program; Hazardous Waste Injection Restrictions:
Petition for Exemption – Class I Hazardous Waste Injection; ExxonMobil Environmental Services Co., Pasadena, TX, 6034

Executive Office of the President
See Presidential Documents

Export–Import Bank
NOTICES
Economic Impact Policy, 6034

Farm Credit Administration
NOTICES
Meetings; Sunshine Act, 6034

Federal Communications Commission
RULES
Radio Broadcasting Services:
Various Locations, 6001–6002
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 6034–6035
Meetings; Sunshine Act, 6035–6036

Federal Emergency Management Agency
NOTICES
Emergency Declarations:
New York, 6046

Federal Energy Regulatory Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 6018–6020

Combined Notice of Filings, 6020–6025
Environmental Impact Statements; Availability, etc.:
Heavenly Valley, L.P., 6025–6026
Filings:
American Electric Power Service Corp., 6027
Dynegy Midwest Generation, Inc., 6027
East Kentucky Power Cooperative, Inc., 6027–6028
National Register Of Historic Places:
Broken Bow, OK, 6028
Technical Conference:
El Paso Natural Gas Co., 6028
Teleconference; FERC Staff Attendance:
California Independent System Operator Corp., 6028

Federal Highway Administration
NOTICES
Final Federal Agency Actions on Proposed Highway Project in California, 6080–6081
Final Federal Agency Actions on the US Highway 12 in Sauk County, Wisconsin, 6081–6082

Federal Maritime Commission
NOTICES
Agreements Filed:
MOL / ELJSA Vessel Sharing Agreement, 6036
Ocean Transportation Intermediary License:
Applicants, 6036–6037
Reissuances, 6037
Revocations, 6037–6038

Federal Railroad Administration
NOTICES
Petition for Waiver of Compliance, 6082–6083

Federal Reserve System
NOTICES
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 6038
Meetings; Sunshine Act, 6038

Fish and Wildlife Service
NOTICES
Receipt of Applications for Permit, 6049–6050
Tehachapi Uplands Multiple Species Habitat Conservation Plan:
Availability and Receipt of Application, 6050–6052
Teleconference:
Sport Fishing and Boating Partnership Council, 6052–6053
Tensas River National Wildlife Refuge, Franklin, Madison, and Tensas Parishes, LA:
Availability; Draft Comprehensive Conservation Plan and Environmental Assessment; Request for Comments, 6053–6055

Foreign Assets Control Office
NOTICES
Designation of Additional Individuals and Entities (Pursuant to Executive Order 13382), 6085

Foreign–Trade Zones Board
NOTICES
Request for Manufacturing Authority:
Foreign–Trade Zone 79 – Tampa, FL; Tampa Bay Shipbuilding and Repair Co. (Shipbuilding), 6012–6013

General Services Administration
NOTICES
Privacy Act; Systems of Records, 6038–6041

Health and Human Services Department
See Centers for Disease Control and Prevention
See Children and Families Administration
See National Institutes of Health
NOTICES
Meetings:
Advisory Committee on Minority Health, 6041

Homeland Security Department
See Coast Guard
See Federal Emergency Management Agency
See U.S. Immigration and Customs Enforcement
NOTICES
Meetings:
DHS Data Privacy and Integrity Advisory Committee, 6043–6044

Housing and Urban Development Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Funding Availability for the Hispanic Serving Institutions Assisting Communities (HSIAC) Program, 6047–6048
Federal Property Suitable as Facilities to Assist the Homeless, 6048
Multifamily Housing Procedures for Projects Affected by Presidentially–Declared Disasters, 6048–6049
Telecommunications Services in Multifamily Housing Projects, 6049

Interior Department
See Fish and Wildlife Service

International Trade Administration
NOTICES
Antidumping or Countervailing Duty Orders, Findings, or Suspended Investigations:
Opportunity to Request Administrative Review, 6013–6014
Antidumping:
Certain Polyester Staple Fiber from the Republic of Korea, 6014–6015
Frozen Fish Fillets from the Socialist Republic of Vietnam, 6015
Export Trade Certificate of Review, 6015–6016
North American Free–Trade Agreement, Article 1904:
NAFTA Panel Reviews; Request for Panel Review, 6016

International Trade Commission
NOTICES
Investigations:
Certain Power Supplies, 6055–6056

Justice Department
See Drug Enforcement Administration
NOTICES
Consent Decree:
United States v. Citibank Global Market Holdings, Inc., 6056

Labor Department
See Employee Benefits Security Administration

Maritime Administration
NOTICES
Requested Administrative Waiver of the Coastwise Trade Laws, 6083–6084

National Credit Union Administration
PROPOSED RULES
Corporate Credit Unions, 6004–6007

National Highway Traffic Safety Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 6084

National Institutes of Health
NOTICES
Meetings:
Center for Scientific Review, 6042
National Institute of Dental and Craniofacial Research Special Emphasis Panel, etc., 6043
National Institute of Environmental Health Sciences, 6042–6043

National Oceanic and Atmospheric Administration
PROPOSED RULES
Receipt of a Petition for Rulemaking to Implement the Provisions of the Marine Mammal Protection Act for Swordfish Imports, 6010–6011
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 6016–6017
NOAA to Transfer Ownership of John N. Cobb to Seattle Maritime Academy, 6017

Nuclear Regulatory Commission
RULES
List of Approved Spent Fuel Storage Casks:
MAGNASTOR Addition; Confirmation of Effective Date, 5983
NOTICES
Application for Renewal:
Florida Power Corp.; Crystal River Unit 3 Nuclear Generating Plant, 6060
Environmental Assessment; Availability, etc.:
Signum Biosciences, Inc.; Monmouth Junction, NJ, 6060–6062
Environmental Assessment; Availability. etc.:
Seiko Corp. of America's, Mahwah, NJ, 6062–6063
Hearing:
AMERENUE; Callaway Plant Unit 2, 6064–6067

Pension Benefit Guaranty Corporation
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 6067–6068

Personnel Management Office
PROPOSED RULES
Prevailing Rate Systems:
Redefinition of the Fresno and Stockton, CA, Appropriated Fund Federal Wage System Wage Areas, 6003–6004

Presidential Documents
EXECUTIVE ORDERS
Government Agencies and Employees:
Contract Employees; Nondisplacement of Qualified Workers (EO 13495), 6103–6106
Contract Employees; Notification of Rights Under Federal Labor Laws (EO 13496), 6107–6111
Contracts; Economical and Efficient Administration (EO 13494), 6099–6102
Regulatory Planning and Review; Revocation of Previous Executive Orders (EO 13497), 6113
ADMINISTRATIVE ORDERS
Gaza Strip; Unexpected Urgent Refugee and Migration Needs (Presidential Determination)
No. 2009–15 of January 27, 2009, 6115

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

Securities and Exchange Commission
NOTICES
Meetings; Sunshine Act, 6068
Order of Suspension of Trading:
Global 1 Investment Holdings Corp., 6068–6069
Self–Regulatory Organizations; Proposed Rule Changes:
NASDAQ OMX BX, Inc., 6069–6073
New York Stock Exchange LLC, 6073–6077
NYSE Alternext US LLC, 6077–6079

Small Business Administration
NOTICES
Meetings:
National Small Business Development Advisory Board, 6080

Social Security Administration
NOTICES
Maximum Dollar Limit in the Fee Agreement Process, 6080

State Department
NOTICES
Culturally Significant Objects Imported for Exhibition Determinations:
Brucke; The Birth of Expressionism (1905–1913), 6080

Surface Transportation Board
NOTICES
Simplified Standards for Rail Rate Cases–Taxes in Revenue Shortfall Allocation Method; Correction, 6084

Thrift Supervision Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 6086–6097

Transportation Department
See Federal Highway Administration
See Federal Railroad Administration
See Maritime Administration
See National Highway Traffic Safety Administration
See Surface Transportation Board

Treasury Department
See Foreign Assets Control Office
See Thrift Supervision Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 6084–6085

U.S. Immigration and Customs Enforcement
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 6047

Separate Parts In This Issue

Part II
Presidential Documents, 6099–6113, 6115

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

Executive Orders:

13201 (revoked by 13496) 6107
13204 (revoked by 13495) 6103
13258 (revoked by 13497) 6113
13422 (revoked by 13497) 6113
13494 6101
13495 6103
13496 6107
13497 6113

Administrative Orders:

Presidential Determinations: No. 2009–15 of January 27, 2009 6115

5 CFR

Proposed Rules:

532 6003

10 CFR

72 5983

12 CFR

Proposed Rules:

704 6004

29 CFR

Proposed Rules:

2550 6007

33 CFR

117 (4 documents) 5983, 5984, 5986
165 (2 documents) 5987, 5989

40 CFR

6 5991
271 5994

Proposed Rules:

6 6008
271 6010

47 CFR

73 6001

50 CFR

Proposed Rules:

216 6010

Rules and Regulations

Federal Register

Vol. 74, No. 22

Wednesday, February 4, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AI51

[NRC–2008–0568]

List of Approved Spent Fuel Storage Casks: MAGNASTOR Addition, Confirmation of Effective Date

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule: Confirmation of effective date.

SUMMARY: The Nuclear Regulatory Commission (NRC) is confirming the effective date of February 4, 2009, for the direct final rule that was published in the **Federal Register** on November 21, 2008. This direct final rule amended the NRC's regulations to add the NAC International Inc. MAGNASTOR cask system to the list of approved spent fuel storage casks in 10 CFR 72.214.

DATES: *Effective Date:* The effective date of February 4, 2009, is confirmed for direct final rule published in the **Federal Register** on November 21, 2008 (73 FR 70587).

ADDRESSES: Documents related to this rulemaking, including any comments received, may be examined at the NRC Public Document Room, Room O–1F23, 11555 Rockville Pike, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Jayne M. McCausland, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6219, e-mail *Jayne.McCausland@nrc.gov.*

SUPPLEMENTARY INFORMATION: On November 21, 2008 (73 FR 70587), the NRC published a direct final rule amending its regulations at 10 CFR 72.214 to add the MAGNASTOR cask system to the ''List of Approved Spent Fuel Storage Casks'' as Certificate of Compliance Number 1031. In the direct final rule, NRC stated that if no significant adverse comments were received, the direct final rule would become final on February 4, 2009. The NRC did not receive any comments on the direct final rule. Therefore, this rule will become effective as scheduled.

Dated at Rockville, Maryland, this *27th* day of *January* 2009.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration.

[FR Doc. E9–2370 Filed 2–3–09; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2008–1191]

RIN 1625–AA09

Drawbridge Operation Regulation; Upper Mississippi River, Dubuque, IA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operations of the Illinois Central Railroad Drawbridge across the Upper Mississippi River, mile 579.9, at Dubuque, Iowa. The deviation is necessary to allow time for conducting needed maintenance and repairs to the bridge. This deviation allows the bridge to open on signal if at least 24 hours advance notice is given.

DATES: This deviation is effective from 12:01 a.m., January 15, 2009 until 8 a.m., March 1, 2009.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–1191 and are available online at *www.regulations.gov.* They are also available for inspection or copying at two locations: The Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the Robert A. Young Federal Building, Room 2.107f, 1222 Spruce Street, St. Louis, MO 63103–2832, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Roger K. Wiebusch, Bridge Administrator, (314) 269–2378.

SUPPLEMENTARY INFORMATION: The Canadian National Railway Company requested a temporary deviation for the Illinois Central Railroad Drawbridge, across the Upper Mississippi River, Mile 579.9, at Dubuque, Iowa to open on signal if at least 24 hours advance notice is given to facilitate critical bridge repair and annual maintenance. The Illinois Central Railroad Drawbridge currently operates in accordance with 33 CFR 117.5, which states the general requirement that drawbridges shall open promptly and fully for the passage of vessels when a request to open is given in accordance with the subpart. In order to facilitate the needed bridge work, the drawbridge must be kept in the closed-to-navigation position. This deviation allows the bridge to open on signal if at least 24 hours advance notice is given from 12:01 a.m., January 15, 2009 until 8 a.m., March 1, 2009.

Navigation on the waterway consists primarily of commercial tows and recreational watercraft and will not be significantly impacted due to the reduced navigation in winter months. Winter conditions on the Upper Mississippi River will preclude any significant navigation demands for the drawspan opening.

The Illinois Central Railroad Drawbridge navigation span has a vertical clearance of 19.9 feet above normal pool in the closed to navigation position. Performing maintenance on the bridge and pier protection during the winter, when the number of vessels likely to be impacted is minimal, is preferred to the bridge closure or advance notification requirements during the navigation season. This temporary change to the drawbridge's operation has been coordinated with the commercial waterway operators.

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

This temporary deviation has been coordinated with waterway users. No objections were received.

Dated: January 7, 2009.

Roger K. Wiebusch,

Bridge Administrator, Eighth Coast Guard District (dwb).

[FR Doc. E9–2349 Filed 2–3–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2008–1256]

Drawbridge Operation Regulation: Upper Mississippi River, Keokuk, IA, Activity Identifier; Repair and Maintenance

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation governing the operation of the Keokuk Drawbridge, across the Upper Mississippi River, mile 364.0, at Keokuk, Iowa. The deviation is necessary to allow time for performing needed maintenance and repairs to the bridge. This deviation allows the bridge to open on signal if at least 24 hours advance notice is given from 12:01 a.m., January 12, 2009 until 9 a.m., February 8, 2009.

DATES: This temporary deviation is effective from 12:01 a.m., January 12, 2009 until 9 a.m., February 8, 2009.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–1256 and are available online at *www.regulations.gov.* They are also available for inspection or copying at two locations: The Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the Robert A. Young Federal Building, Room 2.107F, 1222 Spruce Street, St. Louis, MO 63103–2832, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Roger K. Wiebusch, Bridge Administrator, (314) 269–2378.

SUPPLEMENTARY INFORMATION: The City of Keokuk, Iowa requested a temporary deviation for the Keokuk Drawbridge, across the Upper Mississippi, mile 364.0, at Keokuk, Iowa to open on signal if at least 24 hours advance notice is given in order to facilitate needed bridge maintenance and repairs. The Keokuk Drawbridge currently operates in accordance with 33 CFR 117.5, which states the general requirement that drawbridges shall open promptly and fully for the passage of vessels when a request to open is given in accordance with the subpart. In order to facilitate the needed bridge work, the drawbridge must be kept in the closed-to-navigation position. This deviation allows the bridge to open on signal if at least 24 hours advance notice is given from 12:01 a.m., January 12, 2009 until 9 a.m., February 8, 2009.

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

The Keokuk Drawbridge, in the closed-to-navigation position, provides a vertical clearance of 25.2 feet above normal pool. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. This temporary deviation has been coordinated with waterway users. No objections were received.

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

Dated: January 7, 2009.

Roger K. Wiebusch,

Bridge Administrator.

[FR Doc. E9–2316 Filed 2–3–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2008–0721]

RIN 1625–AA09

Drawbridge Operation Regulation; Willamette River, Portland, OR, Schedule Change

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the drawbridge operation regulation for the Broadway and Burnside Bridges across the Willamette River, mile 11.7, in Portland, Oregon so that one-hour notice is required from 8 a.m. to 5 p.m. Monday through Friday and two-hour notice at all other times. Also, the Broadway Bridge is deleted as a point of contact for upstream vessels, leaving the Hawthorne Bridge as the point of contact for both upstream and downstream travel directions. These changes are necessary to reduce the staffing requirements for the bridges, which has been made possible by the infrequent number of requests for openings received.

DATES: This rule is effective March 6, 2009.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2008–0721 and are available online by going to *http://www.regulations.gov,* selecting the Advanced Docket Search option on the right side of the screen, inserting USCG–2008–0721 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. This material is also available for inspection or copying at two locations: the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays and Commander (dpw), Thirteenth Coast Guard District, 915 Second Avenue, room 3510, Seattle, WA 98174–1067, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Austin Pratt, Chief, Bridge Section, Waterways Management Branch, Thirteenth Coast Guard District, telephone 206–220–7282. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On September 12, 2008, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulation; Willamette River, Portland, OR, Schedule Change in the **Federal Register** (73 FR 178). We received no public submissions on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

The rule enables Multnomah County, the owner of the Broadway Bridge, to operate the draw if at least one hour of notice is provided from 8 a.m. to 5 p.m. Monday through Friday and two hours

of notice at all other times. From July 1, 2005, through June 30, 2007, the draw opened 165 times for vessels. This bridge opens on average slightly less than 7 times a month for river traffic. Most vessels that require the Broadway bascule span to open are grain ships, which are piloted by Columbia River Pilots. These ships have typically been able to give several hours notice of arrival as they must navigate over 100 miles of the Columbia River to reach Portland from the Pacific Ocean.

The operating regulations currently in effect for the Broadway Bridge are found at 33 CFR 117. The drawspan currently operates under the general requirements of 33 CFR 117.897(a)(1) such that it must open on signal for the passage of vessels except that Monday through Friday it need not open from 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m. These closed periods are not effective for Federal holidays, except Columbus Day. The Broadway Bridge is the point of contact for upstream or inbound vessels for openings of drawbridges that require advance notice. The rule gives this function to the Hawthorne Bridge, which is the point of contact for vessels traveling downstream.

The bridge provides a minimum of 90 feet of vertical clearance in the closed position above low water (elevation 0.0 feet Portland City Datum). It is considerably higher than other bascule bridges on the Willamette in downtown Portland, which partly explains its low frequency of opening. The horizontal clearance is 250 feet. In the fully open position the bridge allows unlimited vertical clearance over the channel.

The bridge is located on a major arterial in Portland carrying both local and commuter traffic.

The rule restores normal double-leaf operations to the Burnside Bridge, mile 12.4, following a lengthy rehabilitation project.

Discussion of Proposed Rule

This rule amends 33 CFR 117.897 by revising the current paragraph (c) to add the Broadway Bridge to the bridges for which there is the notice requirement for openings. The point of contact for both upstream and downstream traffic is the Hawthorne Bridge rather than the Broadway and Hawthorne, respectively. The Burnside Bridge is required to operate both leaves per the same schedule.

We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. The Coast Guard made this determination based on the fact that most vessel operators can plan their passage in accordance with the closed periods to minimize any impact on their activities.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will predominantly affect grain ships traveling to and from the dock at C.L.D. Pacific Grain immediately upstream of the bridge on the east bank. The pilots of these vessels should be able to provide this notice with no undue burden. The single point of contact for advance notice simplifies the regulation for users.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), in the NPRM we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination

with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, 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.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

We have analyzed this rule under Department of Homeland Security Directive 0023.1 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. Therefore, this rule is categorically excluded, under section 2.B.2. figure 2–1, paragraph 32(e) of the Instruction and neither an environmental assessment nor an environmental impact statement is required. This rule involves the promulgation of operating regulations or procedures for drawbridges.

List of Subjects in 33 CFR Part 117

Bridges.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1(g); Department of Homeland Security Delegation No. 0170.1.

■ 2. Amend § 117.897 by revising paragraphs (c) introductory text, (c)(3)(i), and (c)(3) (iii) to read as follows:

§ 117.897 Willamette River.

* * * * *

(c) The draws of the bridges listed in paragraph (c)(3) of this section shall open on signal if appropriate advance notice is given to the drawtender of the Hawthorne Bridge subject to the following requirements and exceptions:

* * * * *

(3)(i) Broadway Bridge, mile 11.7, from 8 a.m. to 5 p.m. Monday through Friday, one hour's notice shall be given for draw openings. At all other times, notice of at least two hours in advance is required.

* * * * *

(iii) Burnside Bridge, mile 12.4, from 8 a.m. to 5 p.m. Monday through Friday, one hour's notice shall be given for draw openings. At all other times, two hours notice is required.

* * * * *

Dated: December 16, 2008.

J.P. Currier,

Rear Admiral, U.S. Coast Guard, Commander, Thirteenth Coast Guard District.

[FR Doc. E9–2311 Filed 2–3–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2009–0004]

RIN 1625–AA09

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway (AIWW), Elizabeth River, Southern Branch, VA, Maintenance

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the Norfolk Southern #7 Railroad Bridge, at AIWW mile 5.8, across the Elizabeth River (Southern Branch) in Chesapeake, VA. Under this temporary deviation, the drawbridge may remain in the closed position on specific dates and times to facilitate structural repairs.

DATES: This deviation is effective from 5 a.m. on February 1, 2009, to 11 p.m. on May 10, 2009.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2009–0004 and are available online at *www.regulations.gov*. They are also available for inspection or copying at two locations: The Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the Commander (dpb), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704–5004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Bill H. Brazier, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398–6422.

SUPPLEMENTARY INFORMATION: The Norfolk Southern Corporation, who owns and operates this single-leaf bascule drawbridge, has requested a temporary deviation from the current operating regulations set out in 33 CFR 117.997(e) to facilitate structural repairs.

The Norfolk Southern #7 Bridge, at AIWW mile 5.8, across the Elizabeth River (Southern Branch) in Chesapeake, VA, has a vertical clearance in the closed position to vessels of 7 feet above mean high water.

To complete the replacement for the remaining segments of curved tread plates on the curved segmental girders on the lift span, the drawbridge will be maintained in the closed-to-navigation position beginning at 5 a.m. until and including 11 p.m. each Sunday on February 1, 2009, February 8, 2009, March 1, 2009, March 8, 2009, April 5, 2009, April 12, 2009, May 3, 2009, and May 10, 2009.

The Coast Guard will inform the users of the waterway through our Local and Broadcast Notices to Mariners of the opening restrictions of the draw span to

minimize transiting delays caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period.

This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: January 12, 2009.

Waverly W. Gregory, Jr.,

Chief, Bridge Administration Branch, Fifth Coast Guard District.

[FR Doc. E9–2339 Filed 2–3–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2008–0112]

RIN 1625–AA11

''Gasco'' Regulated Navigation Area, Willamette River, Portland, OR

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a Regulated Navigation Area on the Willamette River, Portland, Oregon Captain of the Port Zone. This action is necessary to preserve the integrity of the clean engineered pilot cap placed over a portion of the NW Natural ''Gasco'' site (Site) remediation area as part of the Environmental Protection Agency (EPA) Superfund clean up action. This rule is needed to prohibit activities that would cause disturbance of pilot cap material which was placed to isolate and contain underlying contaminated sediment.

DATES: This rule is effective March 6, 2009.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2008–0112 and are available online by going to *http://www.regulations.gov,* selecting the Advanced Docket Search option on the right side of the screen, inserting USCG–2008–0112 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. This material is also available for inspection or copying at two locations: The Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, D.C. 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays and U.S. Coast Guard Sector Portland, 6767 North Basin Ave., Portland, OR 97217 between 8 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call MST1 Jaime Sayers, U.S. Coast Guard Sector Portland, Waterways Management Division, telephone 503–240–9300. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On June 2, 2008, we published a notice of proposed rulemaking (NPRM) entitled ''Gasco' Regulated Navigation Area, Willamette River, Portland, OR'' in the **Federal Register** (73 FR 31397). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

On April 28, 2004, NW Natural entered into an Administrative Order with the U.S. Environmental Protection Agency to perform a number of actions in association with removing a tar body at the surface of the near shore sediment adjacent to the Site. The Site is located in the Portland Harbor Superfund site at approximately river mile 6.5 on the Willamette River. As part of these actions, a pilot cap was designed and constructed to cap over a portion of the removal area. The purpose of the pilot cap is to place a barrier over a portion of the removal area and monitor the performance of the pilot cap until the Portland Harbor Superfund Site Remedial Investigation/Feasibility Study is completed and a final remedy is evaluated for the Site. The information collected during the interim will be used to help evaluate contamination loading through the pilot cap due to residual contamination in sediments and/or potential ground water migration through the pilot cap, and to help determine whether capping might be an effective remedy for future remediation at the Site. Accordingly, a regulated navigation area is needed to limit disturbances to the pilot cap reducing a potential hazardous release into the Willamette River.

Discussion of Comments and Changes

No comments were received on this rule during the comment period such that no changes have been made to the rule.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. The effect of this regulation will not be significant based on the fact there will be minimal, if any, effect on the navigable waterway around the regulated area due to the regulated navigation area's proximity to the shore.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the Willamette River. This rule will not have a significant economic impact on a substantial number of small entities because the regulated navigation area is limited in size leaving ample room for vessels to navigate around the area. Vessels engaged in commerce with the existing refueling pipeline located within the site should not be affected by this regulation in those activities but are advised to minimize potential impacts such as anchoring, wake scouring, and dragging in the vicinity of the pilot cap.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), in the NPRM we offered to assist small

entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, 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.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. Therefore, this rule is categorically excluded, under section 2.B.2. Figure 2–1, paragraph (34)(g), of the Instruction and neither an environmental assessment nor an environmental impact statement is required. This rule involves the establishing, disestablishing , or changing Regulated Navigation Areas, and security or safety zones. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.1322 to read as follows:

§ 165.1322 Regulated Navigation Area: Willamette River Portland, Oregon Captain of the Port Zone.

(a) *Location.* The following is a regulated navigation area (RNA): All waters of the Willamette River encompassed by a line commencing at 45°34′.47″ N, 122°45′28″ W along the shoreline to 45°34′47″ N, 122°45′30″ W thence to 45° 34′47″ N, 122°45′30″ W thence to 45°34′48″ N, 122°45′30″ W thence to 45°34′48″ N, 122°45′30″ W thence to 45°34′48″ N, 122°45′28″ W thence to 45°34′47″ N, 122°45′28″ W and back to the point of origin. All coordinates reference 1983 North American Datum (NAD 83).

(b) *Regulations.* (1) Motoring, anchoring, dragging, dredging, or trawling are prohibited in the regulated area.

(2) All vessels transiting or accessing the regulated area shall do so at a no

wake speed or at the minimum speed necessary to maintain steerage.

Dated: December 2, 2008.

J.P. Currier,

Rear Admiral, U.S. Coast Guard, Commander, Thirteenth Coast Guard District.

[FR Doc. E9–2310 Filed 2–3–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2008–0121]

RIN 1625–AA11

''McCormick & Baxter'' Regulated Navigation Area, Willamette River, Portland, OR

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a Regulated Navigation Area on the Willamette River, Portland, Oregon. This action is necessary to preserve the integrity of the engineered pilot cap placed over contaminated sediments as part of an Environmental Protection Agency (EPA) Superfund cleanup action at the McCormick & Baxter Creosoting Company Superfund Site. This rule is needed to prohibit activities that would cause disturbance of pilot cap material, which was placed to isolate and contain underlying contaminated sediment.

DATES: This rule is effective March 6, 2009.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2008–0121 and are available online by going to *http://www.regulations.gov,* selecting the Advanced Docket Search option on the right side of the screen, inserting USCG–2008–0121 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. This material is also available for inspection or copying at two locations: The Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays and U.S. Coast Guard Sector Portland, 6767 North Basin Ave., Portland, OR 97217, between 8 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call MST1 Jaime Sayers, U.S. Coast Guard Sector Portland, Waterways Management Branch, telephone 503–240–9300. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On June 3, 2008, we published a notice of proposed rulemaking (NPRM) entitled ''McCormick and Baxter Regulated Navigation Area, Willamette River, Portland, OR'' in the **Federal Register** (73 FR 31652). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

The McCormick & Baxter Creosoting Company operated between 1944 and 1991, treating wood products with creosote, pentachlorophenol and inorganic (arsenic, copper, chromium, and zinc) preservative solutions. Historically, process wastewaters were discharged directly to the Willamette River, and other process wastes were dumped in several areas of the Site. Significant concentrations of wood-treating chemicals have been found in soil and groundwater at the site and in river sediments adjacent to the Site. The EPA listed the Site on the National Priorities List (NPL) in June 1994 based on information collected by DEQ between September 1990 and September 1992. The EPA also designated the DEQ as the lead agency for implementing the selected remedy while funding for remedial design and construction was primarily provided by EPA. The DEQ implemented a number of interim removal measures between 1992 and 1994, including plant demolition, sludge and soil removals, and extraction of creosote from the groundwater aquifers. The Record of Decision (ROD) was issued by WPA and DEQ in April 1996 after considering public comments on the Proposed Cleanup Plan. The remedy addressed contaminated ground water, soil and sediment. A component of the groundwater remedy, initiated in 1994, consisted of an automated creosote extraction and groundwater treatment system. However, due to poor product recovery and high operating costs, the automated system was discontinued in late 2000. Creosote is currently being recovered by passive and manual methods. Approximately 6,200 gallons have been recovered since 1991. A contingency groundwater remedy was implemented in the summer of 2003, with the construction of a combination steel sheet pile and soil Bentonite slurry wall surrounding 18 acres. The purpose of the barrier wall is to prevent migration of creosote to the Willamette River. Implementation of the soil remedy began in March 1999 with the removal of 33,000 tons of highly contaminated soil and debris. The soil remedy was completed in September 2005 following installation of a combination impermeable/earthen cap—the impermeable portion covering the area within the subsurface barrier wall. The sediment remedy was implemented in 2004 and primarily consisted of an armored sand cap placed over 23 acres of contaminated sediment. Construction occurred during the summers of 2004 and 2005. Sediment cap construction performed in 2005 followed construction work performed by the City of Portland to stabilize two high pressure sewer lines located within a one-acre portion of the sediment cap. In addition to the sand layer, an oil adsorptive material known as organophyllic clay was used in two creosote seep areas. To protect the cap from erosion, the sand and organophyllic clay were armored with a combination of rock and articulated concrete blocks. Erosion forces evaluated in designing the cap armoring layer included hydraulic-induced stresses due to river currents associated with a 500-year flood, vessel-induced propeller velocities from a tractor tug and various sized recreational boats, wind waves associated with a 100-year wind storm and vessel wakes associated with various boats including a 100-ft fireboat traveling at 14 knots. These forces were evaluated for river level variations due to tidal action and flood currents. Additionally, numerical modeling was used to analyze wave transformation and capping of the riverbank with two feet of topsoil, turf reinforcement matting and herbaceous vegetation. Revegitation of the capped riverbank with native trees and shrubs took place in February 2006 after the soil had been stabilized with the native grasses planted in November 2004. The DEQ has requested the issuance of this RNA in order to prohibit activities that may damage the engineered sediment cap at the Site. Although the sediment cap is designed to withstand a variety of anticipated erosional forces, the cap is susceptible to damage, such as from propeller wash, deployment of barge spuds, deployment and dragging of anchors, and grounding of large vessels. If the engineered sediment cap were to be damaged by marine activities, the contaminated sediments which underlie

the cap could be released to the river thereby posing an unacceptable threat to public health and the environment.

Discussion of Comments and Changes

No comments were received on this rule during the comment period such that no changes have been made to the rule.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. The effect of this regulation will not be significant based on the fact there will be minimal if any effect on the navigable waterway around the regulated area due to the regulated navigation area's proximity to the shore. The local maritime community will be informed of the regulated navigation area via marine informational Notice to Mariners.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the Willamette River. This rule will not have a significant economic impact on a substantial number of small entities because the regulated navigation area is limited in size leaving ample room for vessels to navigate around the area. Vessels engaged in commerce with the existing refueling pipeline located within the site should not be affected by this regulation in those activities but are advised to minimize potential impacts such as anchoring, wake scouring, and dragging in the vicinity of the pilot cap.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), in the NPRM we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, 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.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of

Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.* , specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded under that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. Therefore, this rule is categorically excluded, under section 2.B.2. Figure 2–1, paragraph (34)(g), of the Instruction and neither an environmental assessment nor an environmental impact statement is required. This rule involves the establishing, disestablishing, or changing Regulated Navigation Areas, and security or safety zones. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.1323 to read as follows:

§ 165.1323 Regulated Navigation Area: Willamette River Portland, Oregon Captain of the Port Zone.

(a) *Location.* The following is a regulated navigation area (RNA): All waters of the Willamette River encompassed by a line commencing at 45°34′.33″ N, 122°44′17″ W to 45°34′32″ N, 122°44′18″ W thence to 45°34′35″ N, 122°44′24″ W thence to 45°34′35″ N, 122°44′27″ W thence to 45°34′35″ N, 122°44′36″ W thence to 45°34′35″ N, 122°44′37″ W thence to 45°34′38″ N, 122°44′42″ W to 45°34′39″ N, 122°44′43″ W thence to 45°34′44″ N, 122°44′51″ W thence to 45°34′45″ N, 122°44′53″ W thence to 45°34′47'' N, 122°44′51″ W thence to 45°34′45″ N, 122°44′46″ W to 45°34′45″ N, 122°44′45″ W thence to 45°34′47″ N, 122°44′43″ W thence to 45°34′46″ N, 122°44′42″ W thence to 45°34′48″ N, 122°44′40'' W thence to 45°34′48″ N, 122°44′38″ W and along the shoreline to 45°34′46″ N, 122°44′39″ W and back to the point of origin. All coordinates reference 1983 North American Datum (NAD 83).

(b) *Regulations.* (1) Anchoring, spudding, dredging, laying cable, dragging, trawling, conducting salvage operations, operating commercial vessels of any size, and operating recreational vessels greater than 30 feet in length are prohibited in the regulated area.

(2) All vessels transiting or accessing the regulated area shall do so at no wake speed or at the minimum speed necessary to maintain steerage.

Dated: *December 2, 2008.*

J.P. Currier,

Rear Admiral, U.S. Coast Guard, Commander, Thirteenth Coast Guard District.

[FR Doc. E9–2308 Filed 2–3–09; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 6

[EPA–HQ–OECA–2009–0006; FRL–8766–2]

RIN 2020–AA48

Procedures for Implementing the National Environmental Policy Act and Assessing the Environmental Effects Abroad of EPA Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is issuing a direct final rule to make corrections to its rule entitled ''Procedures for Implementing the National Environmental Policy Act and Assessing the Effects Abroad of EPA Actions,'' which was published September 19, 2007. Since the final rule became effective on October 19, 2007, EPA has received inquiries about some minor inconsistencies and ambiguities in the final rule. This action involves four minor, technical corrections to the rule to address those issues. The first correction expands the definition of ''applicants'' to include those who request EPA approvals. The second change clarifies that a categorical exclusion includes vacant land. The third change corrects the text to indicate that the number of extraordinary circumstances is ten. The last change expands Subpart C to apply to EPA approvals as well as permits and assistance grants.

DATES: This rule is effective on April 6, 2009 without further notice, unless EPA receives adverse comment by March 6, 2009. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OECA–2009–0006, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: Hargrove.robert@epa.gov.*
- *Fax:* 202–564–0072, Attention: Robert Hargrove.
- *Mail:* EPA–HQ–OECA–2009–0006, Environmental Protection Agency, EPA Docket Center (EPA/DC), Enforcement and Compliance Docket and Information Center, Mailcode: 2201T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* Public Reading Room, Room B102, Enforcement and Compliance Docket and Information Center, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC 20004. 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–OECA–2009–0006. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://*

www.regulations.gov or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Public Reading Room, Room B102, Enforcement and Compliance Docket and Information Center, EPA West, 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 OECA Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: Robert Hargrove, Office of Enforcement and Compliance Assurance, NEPA Compliance Division (MC 2252A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–7157; fax number: (202) 564–0072; e-mail address: *Hargrove.robert@epa.gov.*

SUPPLEMENTARY INFORMATION: This preamble is organized according to the following outline:

I. General Information
A. Why Is EPA Using a Direct Final Rule?
B. Does This Rule Apply to Me?
C. Statutory Authority
D. Background
II. EPA's Final Action
III. Statutory and Executive Order Reviews

I. General Information

A. Why Is EPA Using a Direct Final Rule?

EPA is publishing this rule without a prior proposed rule because we view this as a non-controversial action and anticipate no adverse comment. The four changes that are being made to the rule involve no substantive or procedural changes. However, in the ''Proposed Rules'' section of today's **Federal Register**, we are publishing a separate document that will serve as the proposed rule to make these four corrections if adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We would address all public comments in any subsequent final rule based on the proposed rule.

B. Does This Rule Apply to Me?

Those subject to this rule include EPA employees who must comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347), and certain grant and permit applicants who must submit environmental information documentation to EPA for their proposed projects.

C. Statutory Authority

NEPA establishes the federal government's national policy for protection of the environment. The CEQ Regulations at 40 CFR parts 1500 through 1508 establish procedures implementing this national policy. The CEQ's Regulations (40 CFR 1505.1) require federal agencies to adopt and, as needed, revise their own NEPA implementing procedures to supplement the CEQ Regulations and to ensure their decision-making processes are consistent with NEPA.

D. Background

On September 19, 2007 (72 FR 53652), EPA published a final rule amending its regulations for implementing NEPA and Executive Order 12114, ''Environmental Effects Abroad of Major Federal Actions.'' The Agency amended its NEPA implementing procedures by: (1) Consolidating and standardizing the procedural provisions and requirements of the Agency's environmental review process under NEPA; (2) clarifying the general procedures associated with categorical exclusions, consolidating the categories of actions subject to categorical exclusion, amending existing and adding new categorical exclusions, and consolidating and amending existing and adding new extraordinary circumstances; (3) consolidating and amending the listing of actions that generally require an environmental impact statement; (4) clarifying the procedural requirements for consideration of applicable environmental review laws and executive orders; and (5) incorporating other proposed revisions consistent with CEQ Regulations. The final rule supplements and is used in conjunction with the CEQ NEPA Regulations. 40 CFR Part 6 also includes EPA's procedures, ''Assessing the Environmental Effects Abroad of EPA Actions,'' that implement Executive Order 12114, ''Environmental Effects Abroad of Major Federal Actions'' (see 46 FR 3364). The final rule included minor, technical amendments to EPA's procedures for implementing the Order.

II. EPA's Final Action

Following the publication of the final rule, four minor errors were discovered. Through this direct final rule, the Agency is correcting these errors. The first correction is a minor expansion of the definition of ''applicant,'' found at 40 CFR 6.102(b)(2). The revised definition now includes those who request EPA approval in addition to those who request financial assistance or who are applying to EPA for a permit. The next correction involves the categorical exclusion (CE) found at 40 CFR 6.204(a)(2)(vi). That CE allows for the acquisition, transfer, lease, disposition or closure of existing permanent structures, land, equipment, materials, or personal property as long as a number of provisions are met. The CE is being corrected to include vacant land because the acquisition of vacant land meets the required provisions. The third correction is to 40 CFR 6.204(f)(2)(ii), which states that there are 14 extraordinary circumstances. The final rule, however, contains only ten extraordinary circumstances. The last correction is to 40 CFR 6.300(a), which is being expanded to apply to those who are requesting other EPA approvals. Accordingly, EPA is correcting these minor errors through this direct final rule.

We are publishing this rule without prior proposal because the Agency

views this as a non-controversial action and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal should adverse comments be filed. This action will be effective April 6, 2009, without further notice unless the EPA receives relevant adverse comments by March 6, 2009.

If we receive adverse comments, we will publish a document withdrawing this final rule and informing the public that it will not take effect. In that case, all public comments received will be addressed in a subsequent final rule based on the proposed rule that is being published in today's **Federal Register**. We will not institute a second comment period. Parties interested in commenting should do so at this time. If no adverse comments are received, the public is advised that this rule will be effective on April 6, 2009 and no further action will be taken on the proposed rule.

III. Statutory and Executive Order Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely makes technical corrections to a recently-finalized rule, and does not impose any additional requirements. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). 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. Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA. Because this rule does not impose any additional enforceable duty, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This action also does not have federalism implications because it does 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 (64 FR 43255, August 10, 1999). Thus, Executive Order 13132 does not apply to this rule. This action merely makes technical corrections to a recently-finalized rule and does not alter the relationship or the distribution of power and responsibilities.

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, 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 by Executive Order 13175 (65 FR 97249, November 9, 2000). Thus, Executive Order 13175 does not apply to this action. EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866. This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards. The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

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. This action merely makes technical corrections to a recently-finalized rule, and these corrections have no effect on minority or low-income populations.

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 Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined. 5 U.S.C. 804(2). This rule will be effective April 6, 2009.

List of Subjects in 40 CFR Part 6

Environmental protection, Environmental assessments, Environmental impact statements, Environmental protection reporting, Foreign relations, Grant programs—environmental protection, Reporting and recordkeeping requirements.

Dated: January 15, 2009.

Stephen L. Johnson,

Administrator.

■ Therefore, for the reasons set forth in the preamble, EPA hereby amends title 40, chapter I of the Code of Federal Regulations as follows:

PART 6—[AMENDED]

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

Authority: 42 U.S.C. 4321 *et seq.*; 7401–7671q unless otherwise noted.

■ 2. Section 6.102(b)(2) is revised to read as follows:

§ 6.102 Definitions.

* * * * *

(b) * * *

(2) *Applicant* means any individual, agency, or other entity that has:

(i) Filed an application for federal assistance;

(ii) Applied to EPA for a permit; or

(iii) Requested other EPA approval.

* * * * *

■ 3. Section 6.204 is amended by revising paragraphs (a)(2)(vi) and (f)(2)(ii) to read as follows:

§ 6.204 Categorical exclusions and extraordinary circumstances.

* * * * *

(a) * * *

(2) * * *

(vi) Actions involving the acquisition, transfer, lease, disposition, or closure of existing permanent structures, land, equipment, materials or personal property provided that the property: Is either vacant or has been used solely for office functions; has never been used for laboratory purposes by any party; does not require site remediation; and will be used in essentially the same manner such that the type and magnitude of the impacts will not change substantially. This category does not include activities related to construction and/or

demolition of structures on the property (see paragraph (a)(1)(i) of this section).

* * * * *

(f) * * *

(2) * * *

(ii) Actions covered by the proposed categorical exclusion generally do not involve extraordinary circumstances as set out in paragraphs (b)(1) through (b)(10) of this section and generally do not require preparation of an EIS; and

* * * * *

■ 4. Section 6.300(a) is revised to read as follows:

§ 6.300 Applicability.

(a) This section applies to actions that involve applications to EPA for permits or assistance agreements, or request other EPA approval.

* * * * *

[FR Doc. E9–2353 Filed 2–3–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R06–RCRA–2008–0754; FRL–8767–9]

Oklahoma: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Oklahoma has applied to the EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's changes through this immediate final action. The EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we receive written comments which oppose this authorization during the comment period, the decision to authorize Oklahoma's changes to its hazardous waste program will take effect. If we receive comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect, and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

DATES: This final authorization will become effective on April 6, 2009 unless the EPA receives adverse written comment by March 6, 2009. If the EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Submit your comments by one of the following methods:

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

2. *E-mail: patterson.alima@epa.gov*.

3. *Mail*: Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

4. *Hand Delivery or Courier*. Deliver your comments to Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

Instructions: Do not submit information that you consider to be CBI or otherwise protected through regulations.gov, or e-mail. The Federal regulations.gov Web site is an ''anonymous access'' system, which means the 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 the EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the 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 the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the 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.

You can view and copy Oklahoma's application and associated publicly available materials from 8:30 a.m. to 4 p.m. Monday through Friday at the following locations: Oklahoma Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma 73101–1677, (405) 702–7180 and EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, phone number (214) 665–8533. Interested persons wanting to examine these documents should make an appointment with the office at least two weeks in advance.

FOR FURTHER INFORMATION CONTACT: Alima Patterson, Region 6 Regional Authorization Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, (214–665–8533), EPA Region 1145 Ross Avenue, Dallas, Texas 75202–2733, and e-mail address *patterson.alima@epa.gov*.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from the EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask the EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to the EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273, and 279.

B. What Decisions Have We Made in This Rule?

We conclude that Oklahoma's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Oklahoma Final authorization to operate its hazardous waste program with the changes described in the authorization application. Oklahoma has responsibility for permitting treatment, storage, and disposal facilities within its borders and also section 10211(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005 (''SAFETEA''), Public Law 109–59, 119 Statute (August 10, 2005) provides the State of Oklahoma opportunity to request approval from EPA to administer RCRA subtitle C in Indian Country and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). Oklahoma has not applied to administer this program in Indian Country pursuant to section 10211(a) of SAFETEA. Therefore, EPA will implement this program for all Indian Country located within the boundaries

of Oklahoma. New Federal requirements and prohibitions imposed by Federal regulations that the EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, the EPA will implement those requirements and prohibitions in Oklahoma including issuing permits, until the State is granted authorization to do so.

C. What Is the Effect of Today's Authorization Decision?

The effect of this decision is that a facility in Oklahoma subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Oklahoma has enforcement responsibilities under its State hazardous waste program for violations of such program, but the EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses, or reports;
- Enforce RCRA requirements and suspend or revoke permits and
- Take enforcement actions after notice to and consultation with the State.

This action does not impose additional requirements on the regulated community because the regulations for which Oklahoma is being authorized by today's action are already effective under State law, and are not changed by today's action.

D. Why Wasn't There a Proposed Rule Before Today's Rule?

The EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State program changes.

E. What Happens If the EPA Receives Comments That Oppose This Action?

If the EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. The EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time. If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw only that part of this rule, but the authorization of the program changes that the comments do not oppose will become effective on the date specified in this document. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. For What Has Oklahoma Previously Been Authorized?

Oklahoma initially received final Authorization on January 10, 1985, (49 FR 50362–50363) published December 27, 1984 to implement its base hazardous waste management program. We authorized the following revisions: Oklahoma received authorization for revisions to its program with publication dates: April 17, 1990 (55 FR 14280–14282), effective June 18, 1990; September 26, 1990 (55 FR 39274) effective November 27, 1990; April 2, 1991 (56 FR 13411–13413) effective June 3, 1991; September 20, 1991 (56 FR 47675–47677) effective November 19, 1991; September 29, 1993 (58 FR 50854–50856) effective November 29, 1993; October 12, 1993 (58 FR 52679–52682) effective December 13, 1993; October 7, 1994 (59 FR 51116–51122) effective December 21, 1994; January 11, 1995 (60 FR 2699–2702) effective April 27, 1995; October 9, 1996 (61 FR 52884–52886) effective December 23, 1996; Technical Correction March 14, 1997 (62 FR 12100–12101) effective March 14, 1997; September 22, 1998 (63 FR 50528–50531) effective November 23, 1998; March 29, 2000 (65 FR 16528–16532) effective May 30, 2000; May 10, 2000 (65 FR 29981–29985) effective June 10, 2000; January 2, 2001 (66 FR 28–33) effective March 5, 2001 and April 9, 2003 (68 FR 17308–17311) effective June 9, 2003. The authorized Oklahoma RCRA program was incorporated by reference into the CFR published on December 9, 1998 (63 FR 67800–67834) effective February 8, 1999, August 26, 1999 (64 FR 46567–46571) effective October 25, 1999 and August 27, 2003 (68 FR 51488–51492) effective October 27, 2003. On March 1, 2005, and July 12, 2005, July 25, 2006, and August 27, 2008. Oklahoma submitted a final complete program revision application seeking authorization of its program revision in accordance with 40 CFR 271.21.

The Oklahoma Hazardous Waste Management Act (''OHWMA'') provides the ODEQ with the authority to administer the State Program, including the authority and regulatory provisions necessary to administer the provisions of RCRA Clusters XI through XVII, and designates the ODEQ as the State agency to cooperate and share information with EPA for purpose of hazardous waste regulation. The Oklahoma Environmental Quality Code (''Code''), at 27 A O.S. Section 2–2–101, establishes an Environmental Quality (''Board'') as the rulemaking body for the ODEQ, specifically charged with the responsibility of promulgating rules to implement the duties and responsibilities of the ODEQ. The Code, 27A O.S. Section 2–2–201, also establishes a Hazardous Waste Management Advisory Council (''Council'') with the authority to recommend rules to the Board on behalf of the ODEQ.

The Environmental Quality Act, at 27A O.S. Section 1–3–101(E), grants the Oklahoma Corporation Commission (''OCC'') authority to regulate certain aspects of the oil and gas production and transportation industry in Oklahoma, including certain wastes generated by pipelines, bulk fuel sales terminals and certain tank farms, as well as underground storage tanks. To clarify areas of environmental jurisdiction, the ODEQ and OCC developed a ODEQ/OCC Jurisdictional Guidance Document to identify respective areas of jurisdiction. The current ODEQ/OCC jurisdictional Guidance Document was amended and signed on January 27, 1999. The revisions to the State Program necessary to administer Clusters XI through XVII will not affect the jurisdictional authorities of the ODEQ or OCC.

The Board adopted RCRA Cluster XI amendments on March 1, 2002 and became effective on June 13, 2002. RCRA Cluster XII was adopted on February 28, 2003 with effective date of June 12, 2003. RCRA Cluster XIII amended July 2004 and became effective June 15, 2005, RCRA Clusters XIV and XV was amended on November 15, 2005 and became effective June 15, 2006, and RCRA Clusters XVI through XVII adopted and amended through 2007 and became effective July 1, 2008. The rules were also codified at OAC 252:205 *et seq.*

Pursuant to 27A O.S. Section 2–2–104, the State's incorporation of Federal regulations does not incorporate prospectively future changes to the incorporated sections of the 40 CFR, and no other Oklahoma law or regulation reduces the scope of coverage or otherwise affects the authority provided by these incorporated-by-reference

provisions. Further, Oklahoma interprets these incorporated provisions to provide identical authority to the Federal provisions. Thus, OAC 252:205–3–1 through 252:205–3–6 provides equivalent and no less stringent authority than the Federal Subtitle C program in effect July 1, 2002 through July 1, 2007. The State of Oklahoma incorporate by reference the provisions of 40 Code of Federal Regulations (CFR) parts 124.19(a) through (c), 124.19(e), 124.31, 124.32, 124.33, and Subpart G (with exception of parts 124.1 and 124.2); 40 CFR parts 260 through 268, 273 and 279 (with the exception of parts 260.21, 261.4(b)(18), 262 Subparts E and H, 264.1(f), 264.1(g)(12), 264.149, 264.150, 264.301(d), 264.1050(g), 265.1080(e), 264.1080(f), 264.1080(e), 265.1080(f), 265.1080(g), 268.5, 268.6, 268.13, 268.42(b), and 268.44(a) through (g); 40 CFR part 270 (with the exception of 270.1(c)(2)(ix) and 270.14(b)(18)).

Pursuant to the Oklahoma statutes listed in this document, a single State agency, the DEQ, has authority to administer the provisions of the State hazardous waste management program. The DEQ remains the official agency of the State of Oklahoma, as designated by 27A O.S. Section 2–7–105(13) to cooperate with Federal agencies for purposes of hazardous waste regulations.

The OHWMA delegate authority to the ODEQ to administer the State hazardous waste program, including the statutory and regulatory provisions necessary to administer the RCRA Clusters XI, through XVII. Pursuant to 27A O.S. Section 2–7–104, the Executive Director has created the Land Protection Division (''LPD'') to be responsible for implementing the State Program. The LPD is staffed with personnel that have the technical background and expertise to effectively implement the provisions of the State program subtitle C Hazardous Waste Management program.

At the present, the Oklahoma Corporation Commission (OCC) regulates certain aspects of the oil and gas production and transportation industry in Oklahoma, including certain waste generated by pipelines, bulk fuel sales terminals and certain tank farms. The ODEQ and the OCC have in place a (ODEQ/OCC) Jurisdictional Guidance Document that reflects the current state of affairs between the two agencies. The current ODEQ/OCC jurisdictional Guidance Document was amended and signed on January 27, 1999.

G. What Changes Are We Approving With Today's Action?

On March 1, 2005, July 12, 2005, July 25, 2006, and August 27, 2008, the State of Oklahoma submitted a final complete program applications, seeking authorization of their changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that the State of Oklahoma's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. The State of Oklahoma revisions consist of regulations which specifically govern Federal Hazardous Waste revisions promulgated from July 1, 2002 through June 30, 2007 (RCRA Clusters XI–XVII). Oklahoma requirements are included in a chart with this document.

Description of federal requirement (include checklist #, if relevant)	**Federal Register** date and page (and/or RCRA statutory authority)	Analogous state authority
1. NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors. (Checklist 188).	65 FR 42292 July 10, 2000	Oklahoma Statutes Title 27A of Environmental Quality Act, Added by Laws 1994, effective July 1, 1994 and Section 2–7–106 Added by Laws 1981, effective July 1, 1981; Amended by Laws 1993, effective July 1, 1993; Oklahoma Administrative Code Rules 252:205–3–1 through 252:205–3–6 amended March 1, 2002, as effective June 13, 2002.
2. NESHAPS: Second Technical Correction, Vacatur. (Checklist 188.1).	66 FR 24270 May 14, 2001	Oklahoma Statutes Title 27A Section 2–2–104 Added by Laws 1994, effective July 1, 1994 and Section 2–7–106 Added by Laws 1981, effective July 1, 1981; Amended by Laws 1993, effective July 1, 1993. Oklahoma Administrative Code Rules 252:205–3–1 through 252:205–3–6 amended March 1, 2002, as effective June 13, 2002.
3. NESHAPS: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors. (Checklist 188.2).	66 FR 35087 July 3, 2001	Oklahoma Statutes Title 27A Section 2–2–104 Added by Laws 1994, effective July 1, 1994 and Section 2–7–106 Added by Laws 1981, effective July 1, 1981; Amended by Laws 1993, effective July 1, 1993. Oklahoma Administrative Code Rules 252:205–3–1 through 252:205–3–6 amended March 1, 2002, as effective June 13, 2002.
4. Deferral of Phase IV Standards for PCBs as a Constituent Subject to Treatment in Soil. (Checklist 190).	65 FR 81373 December 26, 2000	Oklahoma Statutes Title 27A of Environmental Quality Act, Added by Laws 1994, effective July 1, 1994 and Section 2–7–106 Added by Laws 1981, effective July 1, 1981; Amended by Laws 1993, effective July 1, 1993; Oklahoma Administrative Code Rules 252:205–3–1 through 252:205–3–6 amended March 1, 2002, as effective June 13, 2002.

Description of federal requirement (include checklist #, if relevant)	**Federal Register** date and page (and/or RCRA statutory authority)	Analogous state authority
5. Storage Treatment, Transportation and Disposal of Mixed Waste. (Checklist 191).	66 FR 27218 May 16, 2001	Oklahoma Statutes Title 27A of Environmental Quality Act, Added by Laws 1994, effective July 1, 1994 and Section 2–7–106 Added by Laws 1981, effective July 1, 1981; Amended by Laws 1993, effective July 1, 1993; Oklahoma Administrative Code Rules 252:205–3–1 through 252:205–3–6 amended March 1, 2002, as effective June 13, 2002.
6. Mixture and Derived-From Rules Revisions; Land Disposal Restrictions Correction. (Checklists 192A &192B).	66 FR 27266 May 16, 2001	Oklahoma Statutes Title 27A of Environmental Quality Act, Added by Laws 1994, effective July 1, 1994 and Section 2–7–106 Added by Laws 1981, effective July 1, 1981; Amended by Laws 1993, effective July 1, 1993; Oklahoma Administrative Code Rules 252:205–3–1 through 252:205–3–6 amended March 1, 2002, as effective June 13, 2002.
7. Change of EPA Mailing Address; Additional Technical Amendment and Corrections. (Checklist 193).	66 FR 34374 June 28, 2001	Oklahoma Statutes Title 27A of Environmental Quality Act, Added by Laws 1994, effective July 1, 1994 and Section 2–7–106 Added by Laws 1981, effective July 1, 1981; Amended by Laws 1993, effective July 1, 1993; Oklahoma Administrative Code Rules 252:205–3–1 through 252:205–3–6 amended March 1, 2002, as effective June 13, 2002.
8. Corrective to the Hazardous Waste Identification Rule (HWIR); Revisions to the Mixture and Derived-From Rules. (Checklist 194).	66 FR 50332 October 3, 2001	Oklahoma Statutes Title 27A of Environmental Quality Act, Added by Laws 1994, effective July 1, 1994 and Section 2–7–106 Added by Laws 1981, effective July 1, 1981; Amended by Laws 1993, effective July 1, 1993; Oklahoma Administrative Code Rules 252:205–3–1 through 252:205–3–6 amended February 28, 2003, as effective June 12, 2003.
9. Inorganic Chemical Manufacturing Wastes Identification and Listing. (Checklist 195).	66 FR 58258 November 20, 2001	Oklahoma Statutes Title 27A of Environmental Quality Act, Added by Laws 1994, effective July 1, 1994 and Section 2–7–106 Added by Laws 1981, effective July 1, 1981; Amended by Laws 1993, effective July 1, 1993; Oklahoma Administrative Code Rules 252:205–3–1 through 252:205–3–6 amended February 28, 2003, as effective June 12, 2003.
10. Corrective Action Management Units Amendments. (Checklist 196).	67 FR 2962 January 22, 2002	Oklahoma Statutes Title 27A of Environmental Quality Act Sections 1–1–101, through 2–3–507, 2–1–101, and 2–14–101, as amended through 2004; Oklahoma Administrative Code Rules 252:205–3–1 through 252:205–3–6, as amended February 28, 2003, effective June 12, 2003.
11. Hazardous Air Pollutant Standards for Combustors: Interim Standards. (Checklist 197).	67 FR 6792 February 13, 2002	Oklahoma Statutes Title 27A of Environmental Quality Act Sections 1–1–101, through 2–3–507, 2–1–101, and 2–14–101, as amended through 2004; Oklahoma Administrative Code Rules 252:205–3–1 through 252:205–3–6, as amended February 28, 2003, effective June 12, 2003.
12. Hazardous Air Pollutant Standards for Combustors; Corrections. (Checklist 198).	67 FR February 14, 2002	Oklahoma Statutes Title 27A of Environmental Quality Act Sections 1–1–101, through 2–3–507, 2–1–101, and 2–14–101, as amended through 2004; Oklahoma Administrative Code Rules 252:205–3–1 through 252:205–3–6, as amended February 28, 2003, effective June 12, 2003.

Description of federal requirement (include checklist #, if relevant)	**Federal Register** date and page (and/or RCRA statutory authority)	Analogous state authority
13. Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Waste and TCLP Use with MGP Waste. (Checklist 199).	67 FR 11251 March 13, 2002	Oklahoma Statutes Title 27A of Environmental Quality Act Sections 1–1–101, through 2–3–507, 2–1–101, and 2–14–101, as amended through 2004; Oklahoma Administrative Code Rules 252:205–3–1 through 252:205–3–6, as amended February 28, 2003, effective June 12, 2003.
14. Zinc Fertilizer Rule. (Checklist 200)	67 FR 48393 July 24, 2002	Oklahoma Statutes Title 27A of Environmental Quality Act, Sections 1–1–101, through 2–3–507, 2–1–101, and 2–14–101, as amended through 2004; Oklahoma Administrative Codes Rules 252:205–3–1 through 252:205–3–6, as amended July 2004; 252:205–3–2(c) effective June 15, 2005.
15. Treatment Variance for Radioactively Contaminated Batteries. (Checklist 201).	67 FR 62618 October 7, 2002	Oklahoma Statutes Title 27A of Environmental Quality Act, Sections 1–1–101, through 2–3–507, 2–1–101, and 2–14–101, as amended through 2004; Oklahoma Administrative Codes Rules 252:205–3–1 through 252:205–3–6, as amended July 2004; 252:205–3–2(i) effective June 15, 2005.
16. Hazardous Air Pollutant Standards for Combustors—Corrections 2. (Checklist 202).	67 FR 77687 December 19, 2002	Oklahoma Statutes Title 27A of Environmental Quality Act, Sections 1–1–101, through 2–3–507, 2–1–101, and 2–14–101, as amended through 2004; Oklahoma Administrative Codes Rules 252:205–3–1 through 252:205–3–6, as amended July 2004; 252:205–3–2(j) effective June 15, 2005.
17. Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards Clarification. (Checklist 203).	68 FR 44659 September 29, 2003	Oklahoma Statutes Title 27A of Environmental Quality Act, Section 2–1–101, et seq., as amended through 2005. Oklahoma Environmental Hazardous Waste Management Act 27A O.S. Section 2–27–101, et seq., as amended through 2005. Oklahoma Administrative Code Rules 252:205–3–1, as amended through 2005, effective June 15, 2006.
18. National Environmental Performance Track Program; Corrections. (Checklist 204 & 204.1).	69 FR 21727–21754 April 22, 2004; and 69 FR 62217 October 25, 2004.	Oklahoma Statutes Title 27A of Environmental Quality Act, Section 2–2–101, et seq., as amended through 2005. Oklahoma Environmental Hazardous Waste Management Act 27A O.S. Section 2–7–101, et seq., as amended through 2005. Oklahoma Environmental Permitting Act 27A O.S. Section 2–14–101, et seq., as amended through 2005. Oklahoma Administrative Code Rules 252:205–3–1, as amended through 2005, effective June 15, 2006.
19. National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty trucks; Final Rule NESHAP. (Checklist 205).	69 FR 22601–22661 June 25, 2004	Oklahoma Statutes Title 27A of Environmental Quality Act, Section 2–2–101, et seq., as amended through 2005. Oklahoma Environmental Hazardous Waste Management Act 27A O.S. Section 2–7–101, et seq., as amended through 2005. Oklahoma Environmental Permitting Act 27A O.S. Section 2–14–101, et seq., as amended through 2005. Oklahoma Administrative Code Rules 252:205–3–1, as amended through 2005, effective June 15, 2006.
20. Hazardous Waste—Nonwastes From Production of Dyes, Pigments and Food, Drug and Cosmetic Colorants; Loading-Based listing; Final Rule. (Checklist 206 & 206.1).	70 FR 9138–9180 August 23, 2005; 70 FR 35032 June 13, 2005.	Oklahoma Statutes Title 27A of Environmental Quality Act, Section 2–2–101, et seq., as amended through 2005. Oklahoma Environmental Hazardous Waste Management Act 27A O.S. Section 2–7–101, et seq., as amended through 2005. Oklahoma Environmental Permitting Act 27A O.S. Section 2–14–101, et seq., as amended through 2005. Oklahoma Administrative Code Rules 252:205–3–1, as amended through 2005, effective June 15, 2006.

Description of federal requirement (include checklist #, if relevant)	**Federal Register** date and page (and/or RCRA statutory authority)	Analogous state authority
21. Uniform Hazardous Waste Manifest Rule. (Checklist 207 & 207.1).	70 FR 10776–10825 March 4, 2005; 70 FR 35034 June 16, 2005.	Oklahoma Statutes Title 27A of Environmental Quality Act, Section 2–2–101, et seq., as amended through 2005. Oklahoma Environmental Hazardous Waste Management Act 27A O.S. Section 2–7–101, et seq., as amended through 2005. Oklahoma Environmental Permitting Act 27A O.S. Section 2–14–101, et seq., as amended through 2005. Oklahoma Administrative Code Rules 252:205–3–1, as amended through 2005, effective June 15, 2006.
22. Universal Waste Rule; Specific Provisions for Mercury Containing Equipment. (Checklist 209).	70 FR 45508–45522 August 5, 2005	Oklahoma Statutes Title 27A of Environmental Quality Act, Section 1–1–101, et seq, as amended through 2007. Oklahoma Environmental Hazardous Waste Management Act 27A O.S. Section 2–7–101, et seq., as amended through 2007. Oklahoma Environmental Permitting Act 27A O.S. Section 2–14–101, et seq., as amended through 2007. Oklahoma Administrative Code Rules 252:205–3–1 through 252:205–3–6, as amended through 2007, effective July 1, 2008.
23. Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Chlorinated Aliphatics Production Waste; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities. (Checklist 189).	65 FR 67068 November 8, 2000	Oklahoma Statutes Title 27A of Environmental Quality Act, Added by Laws 1994, effective July 1, 1994 and Section 2–7–106 Added by Laws 1981, effective July 1, 1981; Amended by Laws 1993, effective July 1, 1993; Oklahoma Administrative Code Rules 252:205–3–1 through 252:205–3–6 amended March 1, 2002, as effective June 13, 2002.
24. Standardized Permit for RCRA Hazardous Waste Management Facilities. (Checklist 210).	70 FR 53420–53478 September 8, 2005	Oklahoma Statutes Title 27A of Environmental Quality Act, Section 1–1–101, et seq., as amended through 2007. Oklahoma Environmental Hazardous Waste Management Act 27A O.S. Section 2–7–101, et seq., as amended through 2007. Oklahoma Environmental Permitting Act 27A O.S. Section 2–14–101, et seq., as amended through 2007. Oklahoma Administrative Code 252:205–3–1 through 252:205–3–6, as amended through 2007, effective July 1, 2008.
25. Revisions of Wastewater Treatment Exemptions for Hazardous Waste Mixtures (''Headworks exemptions''). (Checklist 211).	70 FR 57769–57785 October 4, 2005	Oklahoma Statutes Title 27A of Environmental Quality Act, Section 1–1–101, et seq., as amended through 2007. Oklahoma Environmental Hazardous Waste Management Act 27A O.S. Section 2–7–101, et seq., as amended through 2007. Oklahoma Environmental Permitting Act 27A O.S. Section 2–14–101, et seq., as amended through 2007. Oklahoma Administrative Code Rules 252:205–3–1 through 252:205–3–6, as amended through 2007, effective July 1, 2008.
26. NESHAP: Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II. (Checklist 212).	70 FR 59402–59579 October 12, 2005	Oklahoma Statutes Title 27A of Environmental Quality Act, Section 1–1–101, et seq., as amended through 2007. Oklahoma Environmental Hazardous Waste Management Act 27A O.S. Section 2–7–101, et seq., as amended through 2007. Oklahoma Environmental Permitting Act 27A O.S. Section 2–14–101, et seq., as amended through 2007. Oklahoma Administrative Code Rules 252:205–3–1 through 252:205–3–6, as amended through 2007, effective July 1, 2008.

Description of federal requirement (include checklist #, if relevant)	**Federal Register** date and page (and/or RCRA statutory authority)	Analogous state authority
27. Burden Reduction Initiative. (Checklist 213)	71 FR 16862–16915 April 4, 2006	Oklahoma Statutes Title 27A of Environmental Quality Act, Section 1–1–101, et seq., as amended through 2007. Oklahoma Environmental Hazardous Waste Management Act 27A O.S. Section 2–7–101, et seq., as amended through 2007. Oklahoma Environmental Permitting Act 27A O.S. Section 2–14–101, et seq., as amended through 2007. Oklahoma Administrative Code Rules 252:205–3–1 through 252:205–3–6, as amended through 2007, effective July 1, 2008.
28. Corrections to Errors in the Code of Federal Regulations. (Checklist 214).	71 FR 40254–40280 July 4, 2006	Oklahoma Statutes Title 27A of Environmental Quality Act, Section 1–1–101, et seq., as amended through 2007. Oklahoma Environmental Hazardous Waste Management Act 27A O.S. Section 2–7–101, et seq., as amended through 2007. Oklahoma Environmental Permitting Act 27A O.S. Section 2–14–101, et seq., as amended through 2007. Oklahoma Administrative Code Rules 252:205–3–1 through 252:205–3–6, as amended through 2007, effective July 1, 2008.
29. Cathode Ray Tubes Rule. (Checklist 215)	71 FR 42928–42949 July 28, 2006	Oklahoma Statutes Title 27A of Environmental Quality Act, Section 1–1–101, et seq., as amended through 2007. Oklahoma Environmental Hazardous Waste Management Act 27A O.S. Section 2–7–101, et seq., as amended through 2007. Oklahoma Environmental Permitting Act 27A O.S. Section 2–14–101, et seq., as amended through 2007. Oklahoma Administrative Code Rules 252:205–3–1 through 252:205–3–6, as amended through 2007, effective July 1, 2008.

H. Where Are the Revised State Rules Different From the Federal Rules?

There are no State requirements that are more stringent or broader in scope than the Federal requirements.

I. Who Handles Permits After the Authorization Takes Effect?

Oklahoma will issue permits for all the provisions for which it is authorized and will administer the permits it issues. The EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization. We will not issue any more new permits or new portions of permits except in Indian Country, or the provisions listed in the Table in this document after the effective date of this authorization. The EPA will continue to implement and issue permits for HSWA requirements for which Oklahoma is not yet authorized.

J. How Does Today's Action Affect Indian Country (8 U.S.C. 1151) in Oklahoma?

The State of Oklahoma Hazardous Program is not being authorized to operate in Indian Country.

K. What Is Codification and Is the EPA Codifying Oklahoma's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the CFR. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart LL for this authorization of Oklahoma's program changes until a later date. In this authorization application the EPA is not codifying the rules documented in this **Federal Register** notice.

I. Administrative Requirements

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes preexisting requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action 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 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule 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.

Under RCRA 3006(b), the EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for the EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This action will be effective April 6, 2009.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indians—lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: November 7, 2008.

Richard E. Greene,

Regional Administrator, Region 6.

[FR Doc. E9–2373 Filed 2–3–09; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 09–41]

Radio Broadcasting Services; Various Locations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, on its own motion, editorially amends the Table of FM Allotments to specify the noncommercial educational (NCE) ''star'' designation for several FM channels and classes as allotted to various communities in several FM allotment rulemaking proceedings.

DATES: Effective February 4, 2009.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order,* adopted January 14, 2009, and released January 16, 2009. These amendments are necessary to reflect changes that have been authorized in response to FM allotment rule making proceedings to which the NCE ''star'' designation as listed for various communities was inadvertently removed from Section 73.202(b), FM Table of Allotments by the *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services* 71 FR 76208, published December 20, 2006. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com*. The Commission will not send a copy of the *Report & Order* in this proceeding pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the adopted rules are rules of particular applicability.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ As stated in the preamble, the Federal Communications Commission amends 47 CFR Part 73 as follows:

PART 73—RADIO BROADCASTING SERVICES

■ 1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under California, is amended by removing Channel 277C3 and by adding Channel *277C3 at McKinleyville.

■ 3. Section 73.202(b), the Table of FM Allotments under Indiana, is amended by removing Channel 291A and by adding Channel *291A at Fowler; and by removing Channel 298B and by adding Channel *298B at Terre Haute.

■ 4. Section 73.202(b), the Table of FM Allotments under New York, is amended by removing Channel 221A and by adding Channel *221A at Amherst.

■ 5. Section 73.202(b), the Table of FM Allotments under North Carolina, is amended by removing Channel 237A and by adding Channel *237A at Dillsboro.

■ 6. Section 73.202(b), the Table of FM Allotments under North Dakota, is amended by removing Channel 264C and by adding Channel *264C at Berthold.

■ 7. Section 73.202(b), the Table of FM Allotments under Pennsylvania, is amended by removing Channel 227A and by adding Channel *227A at Susquehanna.

■ 8. Section 73.202(b), the Table of FM Allotments under Virgin Islands, is

amended by adding Channel *226A at Charlotte Amalie.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E9–2397 Filed 2–3–09; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 74, No. 22
Wednesday, February 4, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AL79

Prevailing Rate Systems; Redefinition of the Fresno and Stockton, CA, Appropriated Fund Federal Wage System Wage Areas

AGENCY: U.S. Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The U.S. Office of Personnel Management is issuing a proposed rule that would redefine the geographic boundaries of the Fresno and Stockton, CA, appropriated fund Federal Wage System (FWS) wage areas. The proposed rule would redefine Mariposa and Merced Counties and the Yosemite National Park portion of Madera and Tuolumne Counties, CA, to the Stockton wage area. These changes are based on recent consensus recommendations of the Federal Prevailing Rate Advisory Committee to best match the counties proposed for redefinition to a nearby FWS survey area.

DATES: We must receive comments on or before March 6, 2009.

ADDRESSES: Send or deliver comments to Charles D. Grimes III, Deputy Associate Director for Performance and Pay Systems, Strategic Human Resources Policy Division, U.S. Office of Personnel Management, Room 7H31, 1900 E Street, NW., Washington, DC 20415–8200; e-mail *pay-performance-policy@opm.gov*; or FAX: (202) 606–4264.

FOR FURTHER INFORMATION CONTACT: Madeline Gonzalez, (202) 606–2838; e-mail *pay-performance-policy@opm.gov*; or FAX: (202) 606–4264.

SUPPLEMENTARY INFORMATION: The U.S. Office of Personnel Management (OPM) is issuing a proposed rule to redefine the Fresno and Stockton, CA, appropriated fund Federal Wage System (FWS) wage areas. This proposed rule would redefine Mariposa and Merced Counties and the Yosemite National Park portion of Madera and Tuolumne Counties, CA, from the Fresno wage area to the Stockton wage area.

OPM considers the following regulatory criteria under 5 CFR 532.211 when defining FWS wage area boundaries:

(i) Distance, transportation facilities, and geographic features;

(ii) Commuting patterns; and

(iii) Similarities in overall population, employment, and the kinds and sizes of private industrial establishments.

Mariposa County is currently defined to the Fresno area of application. Based on our analysis of the regulatory criteria for defining appropriated fund wage area boundaries, we find that Mariposa County would be more appropriately defined as part of the Stockton area of application. When measuring from cities, the distance criterion does not favor one wage area more than another. When measuring from host installations, the distance criterion favors the Stockton wage area. The transportation facilities and geographic features criteria favor the Stockton wage area more than the Fresno wage area. Information from local employees indicates that at certain times roads from the south are blocked due to floods or rockslides, while routes from the north remain open. All other criteria are inconclusive. An additional factor to weigh in the decision to redefine Mariposa County is that the Department of the Interior (DOI) believes that recent economic developments in the area indicate some linkage between Mariposa County and the Stockton wage area.

Merced County is currently defined to the Fresno area of application. Our analysis of the regulatory criteria indicates that Merced County would be more appropriately defined as part of the Stockton wage area. The distance criterion favors the Stockton wage area more than the Fresno wage area. Merced County has a similar distribution of surveyable employment to the Stockton survey area. All other criteria are inconclusive. Although a standard review of regulatory criteria shows that most factors are inconclusive, distance does favor Stockton.

Tuolumne County, except for the Yosemite National Park portion, is currently defined to the Stockton area of application. The distance criterion for Tuolumne County favors the Stockton wage area more than the Fresno wage area. All other criteria are inconclusive. We believe that the mixed nature of our regulatory analysis findings indicate that Tuolumne County is appropriately defined to the Stockton wage area. DOI officials have requested that OPM consider redefining Yosemite National Park to the Stockton wage area. Because we are proposing to redefine Mariposa County to the Stockton wage area and because of the geographic proximity of Tuolumne County to the Stockton wage area, we propose that the portion of Tuolumne County occupied by Yosemite National Park be part of the Stockton wage area. This change would place the entire Tuolumne County in the Stockton wage area.

Madera County is currently defined to the Fresno area of application. Our analysis of the regulatory criteria indicates that Madera County is appropriately defined to the Fresno wage area. The distance and commuting patterns criteria for Madera County favors the Fresno wage area more than the Stockton wage area. However, DOI officials have requested that OPM consider redefining Yosemite National Park to the Stockton wage area. Because we are proposing that Mariposa County and the Yosemite National Park portion of Tuolumne County be redefined to the Stockton wage area and because we believe Yosemite National Park should not be split between the Fresno and the Stockton wage areas, we also propose that the portion of Madera County occupied by Yosemite National Park be part of the Stockton wage area. The remaining portion of Madera County would continue to be part of the Fresno wage area. We believe the distance and commuting patterns criteria indicate that the remaining locations in Madera County remain appropriately defined to the Fresno wage area. The Devils Postpile National Monument within Madera County would remain in the Reno, NV, wage area.

The Federal Prevailing Rate Advisory Committee (FPRAC), the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, recommended these changes by consensus. The affected employees in Mariposa and Merced Counties and the Yosemite National Park portion of Madera and Tuolumne Counties would

be placed on the wage schedule for the Stockton wage area on the first day of the first applicable pay period beginning on or after 30 days following publication of the final regulations.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

U.S. Office of Personnel Management.

Kathie Ann Whipple,

Acting Director.

Accordingly, the U.S. Office of Personnel Management is proposing to amend 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

2. In appendix C to subpart B, the wage area listing for the State of California is amended by revising the listings for Fresno and Stockton, to read as follows:

Appendix C to Subpart B of Part 532—Appropriated Fund Wage and Survey Areas

* * * * *

CALIFORNIA

Fresno

Survey Area

California:
- Fresno
- Kings
- Tulare

Area of Application. Survey area plus:

California:
- Kern (Does not include China Lake Naval Weapons Center, Edwards Air Force Base, and portions occupied by Federal activities in Boron (City).)
- Madera (Does not include Devils Postpile National Monument and Yosemite National Park portions.)

* * * * *

Stockton

Survey Area

California:
- San Joaquin

Area of Application. Survey area plus:

California:
- Calaveras
- Madera (Only includes Yosemite National Park portion.)
- Mariposa
- Merced
- Stanislaus
- Tuolumne

* * * * *

[FR Doc. E9–2392 Filed 2–3–09; 8:45 am]

BILLING CODE 6325–39–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 704

RIN 3133–AD58

Corporate Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Advance notice of proposed rulemaking and request for comment (ANPR).

SUMMARY: In the light of current economic circumstances affecting the U.S. economy and, in particular, the financial sector, NCUA is evaluating and reconsidering the role corporate credit unions currently play in the credit union system, including corporates' membership structure, size, and types of services they offer. NCUA is also considering whether to amend its regulation governing corporate credit unions to clarify or revise current provisions, including those related to: Capital; permissible investments; management of credit risk and liquidity; and corporate governance. NCUA seeks comment on these issues and any others commenters think NCUA should consider.

DATES: Comments must be received on or before April 6, 2009.

ADDRESSES: You may submit comments by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *NCUA Web Site: http://www.ncua.gov/RegulationsOpinionsLaws/proposed_regs/proposed_regs.html.* Follow the instructions for submitting comments.
- *E-mail:* Address to *regcomments@ncua.gov.* Include ''[Your name]—Comments on Advanced Notice of Proposed Rulemaking for Part 704'' in the e-mail subject line.
- *Fax:* (703) 518–6319. Use the subject line described above for e-mail.
- *Mail:* Address to Mary Rupp, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

Public Inspection: All public comments are available on the agency's Web site at *http://www.ncua.gov/RegulationsOpinionsLaws/comments* as submitted, except as may not be possible for technical reasons. Public comments will not be edited to remove any identifying or contact information. Paper copies of comments may be inspected in NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9 a.m. and 3 p.m. To make an appointment, call (703) 518–6540 or send an e-mail to *OGCMail@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Ross Kendall, Trial Attorney, Office of General Counsel, at the above address or telephone: (703) 518–6540, or David Shetler, Senior Corporate Program Specialist, at the above address or telephone (703) 518–6640.

SUPPLEMENTARY INFORMATION:

A. Background

The Federal Credit Union Act (Act) authorizes natural person federal credit unions (FCUs) to invest in shares or deposits of any central credit union (corporate credit union). 12 U.S.C. 1757(7)(G). A corporate credit union is an organization, chartered under the Act or under applicable state law as a credit union that receives shares from and provides loan and other services primarily to other credit unions. 12 CFR 704.2. Historically, corporate credit unions have fulfilled an important role in the credit union industry and have provided credit unions with payment and clearing services, including access to wire transfer facilities and automated clearing house transactions. Corporate credit unions have also provided investment services, enabling smaller credit unions to achieve economies of scale and access to greater market returns otherwise unavailable to them. Corporate credit unions have been an important source of liquidity for credit unions through short and medium term credit facilities, and have served as agents on behalf of NCUA's Central Liquidity Facility (CLF) in connection with loans funded by the CLF. Corporate credit unions have also provided other operational services, such as coin and currency services and safekeeping of investments.

There are currently twenty-eight corporate credit unions serving the nation's approximately 7,900 credit unions. As with all credit unions, corporate credit unions are organized as cooperatives, owned by their members and responsive to their needs, enabling

members to receive access to necessary products and services at affordable rates. They provide a level of expertise and market presence that would be unavailable to most of their members if required to rely solely on their own resources.

B. Current Economic Climate and Remedial Measures Taken

Over the last year, many corporate credit unions have experienced a dramatic reduction in the value of their investment portfolios. These reductions, coupled with, in some cases, the virtual freeze-up of the market for trading in certain types of investment securities, have undermined the stability of the corporate credit union system. Simultaneously with the issuance of this Advance Notice of Proposed Rulemaking, which is designed to identify issues that may have contributed to the current state of affairs and to solicit comment and ideas on how to address them as the industry moves ahead, the NCUA Board has taken several actions with a more immediate, remedial impact, designed to stabilize the industry and maintain confidence in the corporate system. These actions include the following:

- An infusion of $1 billion in capital into U.S. Central Federal Credit Union, the corporate system's wholesale credit union, by the National Credit Union Share Insurance Fund (NCUSIF); and
- A temporary NCUSIF guarantee of all member shares, for any corporate credit union that decides to participate in a voluntary guarantee program offered by NCUA.

The Board believes these extraordinary measures, which are mandated by the exigent economic conditions affecting the country, will help stabilize the corporate credit union system and enable credit unions return to their primary mandate, which is to provide affordable financial services to their members. The Board believes that identifying and addressing the issues discussed in this ANPR will help continue to assure stability and confidence in the corporate credit union system in the future.

C. Issues for Consideration

Notwithstanding the successful role that corporates have played in the credit union sector, events of recent months have highlighted several areas in which re-evaluation is appropriate and necessary. As set out more fully below, these include some fundamental aspects concerning the structure, role and services offered by corporate credit unions to the credit union industry.

1. The Role of Corporates in the Credit Union System

Recent events have highlighted structural vulnerabilities in the corporate credit union system. NCUA is considering whether comprehensive changes to the structure of the corporate system are warranted. Possible approaches the agency is considering include eliminating the second or wholesale tier from the corporate system, modifying the level of required capital, isolating payment services from the risks associated with other lines of business, determining which product and service offerings are appropriate for corporates, requiring a restructure of corporate boards, and tightening or eliminating the expanded investment authority that is currently available to corporates.

Payment system. Some of the questions and issues arising in this context, on which the Board is seeking comment, include matters such as whether payment system services should be isolated from other services to separate the risks. If so, what is the best structure for isolating these services from other business risks? Specific comment is solicited concerning whether, for example, it would be better to establish a charter for corporate credit unions whereby a corporate's authority is strictly limited to operating a payment system, with no authority to engage in other services, such as term or structured investments. Additionally, a separate charter may be available for corporate credit unions that want to engage in providing investment services. Another alternative would be for NCUA to establish distinct capital requirements for payment systems risk and the risks of other corporate services. NCUA could also require that a legal and operational firewall be established between payment system services and other services. In connection with this topic, comment is also sought on the question of whether there is sufficient earnings potential in offering payment systems to support a limited business model that is restricted to payment systems services only.

Liquidity and liquidity management. Historically, the primary role of corporate credit unions has been to provide and ensure liquidity. Corporate investments were made with an eye towards ensuring funds would be available to meet members' short-term liquidity needs. Recent events underscore the need to assure a corporate properly considers its investment position relative to its cash flow needs. The Board recognizes and understands that providing liquidity for the credit union system is one of the principal purposes of the corporate credit union network. One question for consideration and comment is whether liquidity ought to be considered a core service of the corporate system, and if so, what steps should be taken, and by whom, to preserve and strengthen corporates' ability to offer that service? For example, should NCUA consider limiting a corporate's ability to offer other specific types of products and services in order to preserve and defend the liquidity function? What specific types of products and services should corporates be authorized to provide?

NCUA is considering additional cash flow measuring requirements to assist corporates in achieving and maintaining proper liquidity management. In this respect, comment is specifically solicited on the question of whether NCUA should add aggregate cash flow duration limitations to Part 704. If so, commenters are invited to describe how this requirement should be structured, and also to identify how such limitations would benefit liquidity management. Finally, comment is solicited on the question of what cash flow duration limits would be appropriate for corporate credit unions, particularly in an evolving interest rate market with previously unseen credit risk spreads.

Field of Membership Issues. NCUA also seeks comment on whether and how to restructure the corporate credit union system. For example, despite its intention of fostering competition, NCUA's decision to allow corporates to have national fields of membership (FOMs) may have resulted in significant, and unforeseen, risk taking. For example, corporates have competed with each other to offer higher rates, and have done so through the accretion of credit and marketability risks. To address this development, should the agency return to defined FOMs, for example, state or regional FOMs?

Expanded Investment Authority. At present, Part 704 provides for an option by which corporates meeting certain criteria can qualify for expanded investment authority. For example, a corporate meeting the criteria set out under Part One of the expanded authority is allowed to purchase investments with relatively lower credit ratings than otherwise permissible under the rule. NCUA seeks comment, first, as to whether the need for expanded authorities continues to exist. If so, should NCUA modify the procedures and qualifications, such as higher capital standards, by which corporates currently qualify for expanded authorities? If so, what should

the new standards be? Should NCUA reduce the expanded authorities available? If so, which ones? Alternatively, should any of the limits in existing expanded authorities be reduced or increased? If so, which ones? Once granted, should NCUA require periodic requalification for expanded authorities? If so, what should be the timeframe?

Structure; two-tiered system. Over time, the corporate system has evolved into two tiers: a retail network of corporates that provide products and services to natural person credit unions, and a single, wholesale corporate that exclusively services the retail corporates. NCUA solicits comment about whether the two-tier corporate system in its current form meets the needs of credit unions. Specifically, NCUA seeks input from commenters about whether there is a continuing need for a wholesale corporate credit union. If so, what should be its primary role? Should there be a differentiation in powers and authorities between retail and wholesale corporates? In considering these issues, commenters are specifically asked to consider whether the current configuration results in the inappropriate transfer of risk from the retail corporates to the wholesale corporate. Commenters should also address whether, assuming the two-tiered system is retained, capital requirements and risk measurement criteria (*e.g.*, NEV volatility), as well as the range of permissible investments, for the wholesale corporate credit union should be different from those requirements that apply to a retail corporate credit union.

2. Corporate Capital

NCUA is considering revising various definitions and standards for determining appropriate capital requirements for corporate credit unions. For example, the agency could establish a new required capital ratio consisting only of core capital excluding membership capital accounts as a component of regulatory capital; the agency could also determine to increase the required capital ratio to more than four percent. The agency could also establish a new ratio based on risk-weighted asset classifications, which could include some form of membership capital. These changes would bring the corporate capital requirements more into line with standards applied by other federal financial regulators, such as the Comptroller of the Currency and the Federal Deposit Insurance Corporation (recognizing, however, that there are other accounting differences that apply with respect to the calculation of regulatory capital for banks). Another issue under consideration is whether to require a certain level of contributed capital from any natural person credit union seeking either membership or services from a corporate.

Core capital. The Board is considering several issues relating to the agency's approach to core capital (*i.e.*, the traditional ''tier one capital'' definition as used by the several federal financial institution regulators). Under the current rule, core capital is defined as retained earnings plus paid-in capital. 12 CFR 704.2. Comment is invited concerning whether NCUA should establish a new capital ratio that corporates must meet consisting only of core capital, and if so, what would be the appropriate level to require. Commenters should offer their view concerning what actions are necessary to enable corporates to attain a sufficient core capital ratio as described above, as well as their thought about what would be an appropriate time frame for corporates to attain sufficient capital. The Board invites comment also on the question of what is the appropriate method to measure core capital given the significant fluctuation in corporate assets that occur. Commenters are invited to offer their view on the correct degree of emphasis that ought to be placed on generating core capital through undivided earnings. Finally, NCUA Is considering whether to require that a corporate limit its services only to members maintaining contributed core capital with the corporate. Commenters are invited to react to that idea, and to offer any other suggestions or comments relative to the issue of core capital for corporates.

Membership capital. The Board is also considering several issues involving membership capital. 12 CFR 704.3(b). Issues under consideration and for which comment is sought include whether NCUA should continue to allow membership capital in its current configuration, or should the agency eliminate or modify certain features, such as the adjustment feature, so that membership capital meets the traditionally accepted definition of tier two capital. Other questions include whether to tie adjusted balance requirements, as set out currently in § 704.3(b)(8), only to assets, as well as whether to impose limits on the frequency of adjustments. The agency is considering whether to require that any attempted reduction in membership capital based on downward adjustment automatically result in the account being placed on notice, within the meaning of current § 704.3(b)(3), so that only a delayed payout after the three-year notice expires is permissible. Comment is also sought on whether to require that any withdrawal of membership capital be conditioned on the corporate's ability to meet all applicable capital requirements following withdrawal. Comment is invited on all these issues and on any revisions NCUA should consider for the definition and operation of membership capital.

Risk-based capital and contributed capital requirements. Comment is solicited with respect to the following issues pertaining to risk-based capital and contributed capital requirements. Should NCUA consider risk-based capital for corporates consistent with that currently required of other federally regulated financial institutions? What regulatory and statutory changes, if any, would be required to effectuate such a change? Should a natural person credit union be required to maintain a contributed capital account with its corporate as a prerequisite to obtaining services from the corporate? Should contributed capital be calculated as a function of share balances maintained with the corporate? What about using asset size?

3. Permissible Investments

NCUA is considering whether the corporate investment authorities should be constrained or restricted. Presently, corporates have the authority to purchase and hold investments that would not be permissible for natural person FCU members under Part 703 (or, in some cases, outside of what is authorized for a state chartered credit union). This increases a corporate member's exposure to these risks commensurate with their level of investment in the corporate. Questions on which comment is solicited in this context include whether NCUA should limit corporate credit union investment authorities to those allowed for natural person credit unions. NCUA is also considering whether to prohibit certain categories of, or specific, investments, for example: collateralized debt obligations (CDOs), net interest margin securities (NIMs), and subprime and Alt-A asset-backed securities. Comment is solicited on that issue, as well as on whether NCUA should modify existing permissibility or prohibitions for investments.

4. Credit Risk Management

The reliability of credit ratings for investments has become more questionable in light of events in the financial industry and the current absence of regulatory oversight for

rating organizations. Consequently, NCUA is considering curbing the extent to which a corporate may rely on credit ratings provided by Nationally Recognized Statistical Rating Organizations (NRSROs). Comment is requested on whether NCUA should require more than one rating for an investment, or require that the lowest rating meet the minimum rating requirements of Part 704. NCUA also solicits comment on whether to require additional stress modeling tools in the regulation to enhance credit risk management.

Several specific aspects of this issue are under consideration, for which comment is solicited, including whether Part 704 should be revised to lessen the reliance on NRSRO ratings. Commenters are invited to identify any other changes they believe may be prudent to help assure adequate management of credit risk. In this respect, commenters should consider whether Part 704 should be revised to provide specific concentration limits, including sector and obligor limits. If so, what specific limits would be appropriate for corporate credit unions? Comments are also solicited on the question of whether corporates should be required to obtain independent evaluations of credit risk in their investment portfolios. If so, what would be appropriate standards for these contractors? Another issue under consideration is whether corporates should be required to test sensitivities to credit spread widening, and if so, what standards should apply to that effort.

5. Asset Liability Management

In a previous version of its corporate rule, NCUA required corporate credit unions to perform net interest income modeling and stress testing. Because one of the problems leading to the current market dislocation is a widening of credit spreads, the agency is considering re-instating this requirement. Alternatively, the agency may consider some form of mandatory modeling and testing of credit spread increases. Comment is solicited on whether NCUA should require corporates to use monitoring tools to identify these types of trends, including specifically comments about tangible benefits, if any, that would flow from these types of modeling requirements.

6. Corporate Governance

The sophistication and far-reaching impact of corporate activities requires a governing board with appropriate knowledge and expertise. NCUA is considering minimum standards for directors that would require a director possess an appropriate level of experience and independence. The agency is also considering term limits, allowing compensation for corporate directors, and requiring greater transparency for executive compensation. Comment is sought on all these issues.

In addition, commenters are invited to respond to the question of whether or not the current structure of retail and wholesale corporate credit union boards is appropriate given the corporate business model. Should NCUA establish more stringent minimum qualifications and training requirements for individuals serving as corporate credit union directors? If so, what should the minimum qualifications be? NCUA is also considering whether to establish a category of ''outside director,'' *i.e.*, persons who are not officers of that corporate, officers of member natural person credit unions, and/or individuals from entirely outside the credit union industry. Commenters should offer their view on whether that approach is wise, and, if so whether NCUA should require that corporates select some minimum number of outside directors for their boards. Should a wholesale corporate credit union be required to have some directors from natural person credit unions? Comment is sought on whether NCUA should impose term limits on corporate directors, and, if so, what the maximum term should be. Comment is also sought on whether corporate directors should be compensated, and, if so, whether such compensation should be limited to outside directors only. Another issue under consideration, for which reaction from commenters is sought, is whether NCUA should allow members of corporate credit unions greater access to salary and benefit information for senior management.

Request for Comments

The NCUA Board invites comment on any of the issues discussed above including specifically if NCUA's regulations should be amended to address the issues discussed in this ANPR. NCUA also welcomes comment on any other relevant issues pertaining to corporate credit unions that have not been addressed in this ANPR.

By the National Credit Union Administration Board on January 28, 2009.

Mary F. Rupp,

Secretary of the Board.

[FR Doc. E9–2292 Filed 2–3–09; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR 2550

RIN 1210–AB13

Investment Advice—Participants and Beneficiaries

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of proposed extension of effective date and applicability date; request for public comments 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,'' this document proposes to extend for 60 days the effective and applicability dates of final rules under the Employee Retirement Income Security Act, and parallel provisions of the Internal Revenue Code of 1986, relating to the provision of investment advice to participants and beneficiaries in individual account plans, such as 401(k) plans, and beneficiaries of individual retirement accounts (and certain similar plans). These rules were published in the **Federal Register** on January 21, 2009. Extending the effective date would allow the Department of Labor to evaluate comments on questions of law and policy concerning the rules. Thus, this document also seeks comments generally on the rules and on the merits of rescinding, modifying or retaining the rules.

DATES: Comments on the proposal to extend the effective and applicability date should be submitted to the Department on or before February 18, 2009. Comments on the provisions of 29 CFR 2550.408g–1 and 2550.408g–2 should be submitted to the Department on or before March 6, 2009.

FOR FURTHER INFORMATION CONTACT: Fred Wong, Office of Regulations and Interpretations, Employee Benefits Security Administration (EBSA), (202) 693–8500. This is not a toll-free number.

ADDRESSES: To facilitate the receipt and processing of comment letters, EBSA encourages interested persons to submit their comments electronically by e-mail to *e-ORI@dol.gov* (enter into subject line: Investment Advice Final Rule) or by using the Federal eRulemaking portal at *http://www.regulations.gov*. Persons submitting comments electronically are encouraged not to submit paper copies. Persons interested in submitting paper

copies should send or deliver their comments to the Office of Regulations and Interpretations, Employee Benefits Security Administration, Attn: Investment Advice Final Rule, Room N–5655, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. All comments will be available to the public, without charge, online at *http://www.regulations.gov* and *http://www.dol.gov/ebsa* and at the Public Disclosure Room, N–1513, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

SUPPLEMENTARY INFORMATION: On January 21, 2009, the Department of Labor published final rules on the provision of investment advice to participants and beneficiaries of participant-directed individual account plans and to beneficiaries of individual retirement accounts (74 FR 3822). The rules contain regulations implementing a statutory prohibited transaction exemption under ERISA § 408(b)(14) and § 408(g) and an administrative class exemption granting additional relief. As published, these rules were to be effective on March 23, 2009. Paragraph (g) of § 2550.408g–1 provided that the rule would apply to covered transactions occurring on or after March 23, 2009.

By memorandum dated January 20, 2009, Rahm Emanuel, Assistant to the President and Chief of Staff, directed Agency Heads to consider extending for 60 days the effective date of regulations that have been published in the **Federal Register** but not yet taken effect. The memorandum further advised that, where such regulations are extended, agencies should allow 30 days for interested persons to comment on issues of law and policy raised by the rules. In accordance with that memorandum, and taking into account the considerations listed in the Memorandum of January 21, 2009, from Peter R. Orszag, Director of the Office of Management and Budget, the Department is proposing to extend the effective date for these rules until May 22, 2009, and to make a conforming amendment to the applicability date of § 2550.408g–1.

Extending the effective date for 60 days will allow the public to comment on whether the rules raise significant policy and legal issues and for the Department to review these comments and the rules before the relief granted by the rules becomes available. The exemptive relief granted by the rules would serve little purpose if the Department were to withdraw or amend the rules after plans and investment advisers had implemented procedures and incurred expenses in order to make use of the exemptive relief.

The Department solicits comments on the proposal to extend the effective and applicability dates for 60 days. For this purpose, the comment period will end on February 18, 2009. At the same time, the Department also solicits comments on issues of law and policy concerning all the provisions of these rules. The purpose of these comments is to assist the Department in its review of these rules. Upon completion of this review, the Department may decide to allow the rules to take effect, issue a further extension, withdraw the rules, or propose amendments. The Department requests comments on each of these possible outcomes. The comment period for this broader purpose will end on March 6, 2009.

List of Subjects in 29 CFR Part 2550

Employee benefit plans, Exemptions, Fiduciaries, Investments, Pensions, Prohibited transactions, Reporting and recordkeeping requirements, and Securities.

For the reasons set forth above, the publication on January 21, 2009 (73 FR 3822), of the final rule amending 29 CFR Part 2550, is proposed to be further amended as follows:

PART 2550—RULES AND REGULATIONS FOR FIDUCIARY RESPONSIBILITY

1. The authority citation for part 2550 is revised to read as follows:

Authority: 29 U.S.C. 1135; and Secretary of Labor's Order No. 1–2003, 68 FR 5374 (Feb. 3, 2003). Sec. 2550.401b–1 also issued under sec. 102, Reorganization Plan No. 4 of 1978, 43 FR 47713 (Oct. 17, 1978), 3 CFR, 1978 Comp. 332, effective Dec. 31, 1978, 44 FR 1065 (Jan. 3, 1978), 3 CFR, 1978 Comp. 332. Sec. 2550.401c–1 also issued under 29 U.S.C. 1101. Sections 2550.404c–1 and 2550.404c–5 also issued under 29 U.S.C. 1104. Sec. 2550.407c–3 also issued under 29 U.S.C. 1107. Sec. 2550.404a–2 also issued under 26 U.S.C. 401 note (sec. 657, Pub. L. 107–16, 115 Stat. 38). Sec. 2550.408b–1 also issued under 29 U.S.C. 1108(b)(1) and sec. 102, Reorganization Plan No. 4 of 1978, 3 CFR, 1978 Comp. p. 332, effective Dec. 31, 1978, 44 FR 1065 (Jan. 3, 1978), and 3 CFR, 1978 Comp. 332. Sec. 2550.408b–19 also issued under sec. 611, Public Law 109–280, 120 Stat. 780, 972, and sec. 102, Reorganization Plan No. 4 of 1978, 3 CFR, 1978 Comp. p. 332, effective Dec. 31, 1978, 44 FR 1065 (Jan. 3, 1978), and 3 CFR, 1978 Comp. 332. Sec. 2550.408g–1 also issued under sec. 102, Reorganization Plan No. 4 of 1978, 3 CFR, 1978 Comp. p. 332, effective Dec. 31, 1978, 44 FR 1065 (Jan. 3, 1978), and 3 CFR, 1978 Comp. 332. Sec. 2550.408g–2 also issued under 29 U.S.C. 1108(g) and sec. 102, Reorganization Plan No. 4 of 1978, 3 CFR, 1978 Comp. p. 332, effective Dec. 31, 1978, 44 FR 1065 (Jan. 3, 1978), and 3 CFR, 1978 Comp. 332. Sec. 2550.412–1 also issued under 29 U.S.C. 1112.

2. Section 2550.408g–1 is amended by removing the date ''March 23, 2009'' and adding in its place ''May 22, 2009'' in paragraph (g).

Signed at Washington, DC, this 29th day of January, 2009.

Alan D. Lebowitz,

Deputy Assistant Secretary for Program Operations, Employee Benefits Security Administration, Department of Labor.

[FR Doc. E9–2296 Filed 2–3–09; 8:45 am]

BILLING CODE 4510–29–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 6

[EPA–HQ–OECA–2009–0006; FRL–8766–1]

RIN 2020–AA48

Procedures for Implementing the National Environmental Policy Act and Assessing the Environmental Effects Abroad of EPA Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to correct its rule entitled ''Procedures for Implementing the National Environmental Policy Act and Assessing the Effects Abroad of EPA Actions,'' which was published September 19, 2007. Since the final rule became effective on October 19, 2007, EPA has received inquiries about some minor inconsistencies and ambiguities in the final rule. This action involves four minor, technical corrections to the rule to address those issues. The first correction expands the definition of ''applicants'' to include those who request EPA approvals. The second change clarifies that a categorical exclusion includes vacant land. The third change corrects the text to indicate that the number of extraordinary circumstances is ten. The last change expands Subpart C to apply to EPA approvals as well as permits and assistance grants. In the ''Rules and Regulations'' section of this **Federal Register**, we have made these four changes as a direct final rule without a prior proposed rule. If we receive no adverse comment, we will not take further action on this proposed rule.

DATES: Any comments must be received by March 6, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. [EPA–HQ–

OECA–2009–0006], by mail to by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: Hargrove.robert@epa.gov.*
- *Fax:* 202–564–0072, Attention: Robert Hargrove.
- *Mail:* EPA–HQ–OECA–2009–0006, Environmental Protection Agency, EPA Docket Center (EPA/DC), Enforcement and Compliance Docket and Information Center, Mailcode: 2201T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* Public Reading Room, Room B102, Enforcement and Compliance Docket and Information Center, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Hargrove; NEPA Compliance Division; Office of Federal Activities (Mailcode 2252A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–7157; fax number: (202)–564–0072; e-mail address: *Hargrove.robert@epa.gov.*

SUPPLEMENTARY INFORMATION: This preamble is organized according to the following outline:

I. General Information
A. Why Is EPA Publishing a Proposed Rule?
B. Does This Rule Apply to Me?
C. Statutory Authority
D. Background
II. EPA's Action
III. Statutory and Executive Order Reviews

I. General Information

A. Why Is EPA Publishing a Proposed Rule?

EPA is proposing to take action on ''Procedures for Implementing the National Environmental Policy Act and Assessing the Environmental Effects Abroad of EPA Actions.'' We have published a direct final rule which includes only four minor corrections to these procedures in the ''Rules and Regulations'' section of this **Federal Register** because we view this as a non-controversial action and anticipate no adverse comment.

B. Does This Rule Apply to Me?

Those subject to this rule include EPA employees who must comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347), and certain grant and permit applicants who must submit environmental information documentation to EPA for their proposed projects.

C. Statutory Authority

NEPA establishes the federal government's national policy for protection of the environment. The Council on Environmental Quality's (CEQ's) Regulations at 40 CFR parts 1500 through 1508 establish procedures for implementing this national policy. The CEQ's Regulations (40 CFR 1505.1) require federal agencies to adopt and, as needed, revise their own NEPA implementing procedures to supplement the CEQ Regulations and to ensure their decision-making processes are consistent with NEPA.

D. Background

On September 19, 2007 (72 FR 53652), EPA published a final rule amending its regulations for implementing NEPA and Executive Order 12114, ''Environmental Effects Abroad of Major Federal Actions.'' The Agency amended its NEPA implementing procedures by: (1) Consolidating and standardizing the procedural provisions and requirements of the Agency's environmental review process under NEPA; (2) clarifying the general procedures associated with categorical exclusions, consolidating the categories of actions subject to categorical exclusion, amending existing and adding new categorical exclusions, and consolidating and amending existing and adding new extraordinary circumstances; (3) consolidating and amending the listing of actions that generally require an environmental impact statement; (4) clarifying the procedural requirements for consideration of applicable environmental review laws and executive orders; and (5) incorporating other proposed revisions consistent with CEQ Regulations. The final rule supplements and is used in conjunction with the CEQ NEPA Regulations. 40 CFR part 6 also includes EPA's procedures, ''Assessing the Environmental Effects Abroad of EPA Actions,'' that implement Executive Order 12114, ''Environmental Effects Abroad of Major Federal Actions'' (see 46 FR 3364). The final rule included minor, technical amendments to EPA's procedures for implementing the Order.

II. EPA's Action

Following the publication of the final rule, four minor errors were discovered. Through this proposed rule, the Agency is correcting these errors. The first correction is a minor expansion of the definition of ''applicant,'' found at 40 CFR 6.102(b)(2). The revised definition now includes those who request EPA approval in addition to those who request financial assistance or who are applying to EPA for a permit. The next correction involves the categorical exclusion (CE) found at 40 CFR 6.204(a)(2)(vi). That CE allows for the acquisition, transfer, lease, disposition or closure of existing permanent structures, land, equipment, materials, or personal property as long as a number of provisions are met. The CE is being corrected to include vacant land because the acquisition of vacant land meets the required provisions. The third correction is to 40 CFR 6.204(f)(2)(ii), which states that there are 14 extraordinary circumstances. The final rule, however, contains only ten extraordinary circumstances. The last correction is to 40 CFR 6.300(a), which is being expanded to apply to those who are requesting other EPA approvals. Accordingly, EPA is correcting these minor errors through this proposed rule. EPA anticipates no adverse comments to these minor technical changes, and has therefore published this action as a direct final rule in the ''Rules and Regulations'' section of this **Federal Register**. Any parties interested in commenting must do so at this time. If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule and it will not take effect. We would address all public comments in any subsequent final rule based on this proposed rule.

III. Statutory and Executive Order Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely makes technical corrections to a recently finalized rule, and does not impose any additional requirements. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). 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. Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA. Because this rule does not impose any additional enforceable duty,

it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This action also does not have federalism implications because it does 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 (64 FR 43255, August 10, 1999). Thus, Executive Order 13132 does not apply to this rule. This action merely makes technical corrections to a recently-finalized rule and does not alter the relationship or the distribution of power and responsibilities.

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, 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 by Executive Order 13175 (65 FR 97249, November 9, 2000). Thus, Executive Order 13175 does not apply to this action. EPA interprets Executive Order 13045 ''Protection of Children from Environmental Health and Safety Risks'' (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866. This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards. The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

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. This action merely makes technical corrections to a recently-finalized rule, and these corrections have no effect on minority or low-income populations.

List of Subjects in 40 CFR Part 6

Environmental protection, Environmental assessments, Environmental impact statements, Environmental protection reporting, Foreign relations, Grant programs—environmental protection, Reporting and recordkeeping requirements.

Dated: January 15, 2009.

Stephen L. Johnson,

Administrator.

[FR Doc. E9–2350 Filed 2–3–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R06–RCRA–2008–0754; FRL–8768–1]

Oklahoma: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The State of Oklahoma has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant Final authorization to the State of Oklahoma. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we receive comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by March 6, 2009.

ADDRESSES: Send written comments to Alima Patterson, Region 6, Regional Authorization Coordinator (6PD–O), Multimedia Planning and Permitting Division, at the address shown below. You can examine copies of the materials submitted by the State of Oklahoma during normal business hours at the following locations: EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, phone number (214) 665–8533; or Oklahoma Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma 73101–1677, (405) 702–7180. Comments may also be submitted electronically or through hand delivery/courier; please follow the detailed instructions in the **ADDRESSES** section of the immediate final rule which is located in the Rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Alima Patterson (214) 665–8533.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: November 7, 2008.

Richard E. Greene,

Regional Administrator, Region 6.

[FR Doc. E9–2371 Filed 2–3–09; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

RIN 0648–AX36

Notification of Receipt of a Petition for Rulemaking to Implement the Provisions of the Marine Mammal Protection Act for Swordfish Imports

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

ACTION: Reopening of comment period.

SUMMARY: In order to provide additional opportunities for the public, foreign nations that export swordfish to the United States, and other interested parties to comment on the petition for rulemaking to implement the provisions of section 101(a)(2)(A) of the Marine Mammal Protection Act for swordfish imports, NMFS is reopening the comment period. On December 15, 2008, NMFS published a notification of receipt of the petition. Based on the December 15, 2008 document, the comment period was scheduled to conclude on January 29, 2009. NMFS is now reopening the comment period until March 23, 2009. Comments received will be considered by NMFS as it determines whether to proceed with

the request by Center for Biological Diversity and Turtle Island Restoration Network. In addition to general comments on the petition, NMFS specifically requests comments on how to define ''United States standards'' as referenced in MMPA section 101(a)(2).

DATES: The request for comments on the petition for rulemaking to implement the provisions of section 101(a)(2)(A) of the Marine Mammal Protection Act for swordfish imports will be reopened on February 4, 2009. Comments must be received by 5 p.m. on March 23, 2009.

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

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal at *http://www.regulations.gov*.
- Mail: Director, Office of International Affairs, Attn: Swordfish Petition, NMFS, F/IA, 1315 East-West Highway, Silver Spring, MD 20910
- Fax: (301) 713–2313

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

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) formats only.

FOR FURTHER INFORMATION CONTACT: Lekelia Jenkins at 301–713–9090 x131.

SUPPLEMENTARY INFORMATION: NMFS received a petition for rulemaking under the Administrative Procedure Act. The Center for Biological Diversity and the Turtle Island Restoration Network, nongovernmental organizations, have petitioned the U.S. Department of Commerce and other relevant Departments to initiate rulemaking to ban importation of commercial fish or products from fish that have been caught with commercial fishing technology that results in incidental mortality or serious injury of marine mammals in excess of United States standards.

On December 15, 2008, NMFS published a notification of the receipt of the petition, with a January 29, 2009, deadline for comments (73 FR 75988). NMFS is reopening the comment period to provide additional opportunity for interested parties to comment on the petition.

The complete text of the Center for Biological Diversity and the Turtle Island Restoration Network's petition is available via the internet at the following web address: *http://www.nmfs.noaa.gov/ia/*. Copies of this petition also may be obtained by contacting NMFS at the above address.

Dated: January 29, 2008.

James W. Balsiger,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. E9–2369 Filed 2–3–09; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 74, No. 22

Wednesday, February 4, 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 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: Requests for Appointment of Technical Advisory Committee.

OMB Control Number: 0694–0100.

Form Number(s): None.

Type of Request: Regular submission.

Burden Hours: 5.

Number of Respondents: 1.

Average Hours Per Response: 5.

Needs and Uses: This collection of information is required by the Export Administration Regulations and the Federal Advisory Committee Act. The Technical Advisory Committees (TACs) were established to advise and assist the U.S. Government on export control matters. Under this collection, interested parties may submit a request to BIS to establish a new TAC. BIS provides administrative support for these TACs.

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

Frequency: On occasion.

Respondent's Obligation: Voluntary.

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 30, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9–2301 Filed 2–3–09; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 1–2009]

Foreign-Trade Zone 79—Tampa, FL Request for Manufacturing Authority Tampa Bay Shipbuilding and Repair Company (Shipbuilding)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Tampa, grantee of FTZ 79, pursuant to Section 400.28(a)(2) of the Board's regulations (15 CFR Part 400), requesting authority on behalf of Tampa Bay Shipbuilding and Repair Company (TBSRC) to construct and repair oceangoing vessels under FTZ procedures within FTZ 79. It was formally filed on January 23, 2009.

On May 29, 2008, temporary/interim manufacturing authority was approved for the TBSRC facility (Docket T–1–2008, Notice of Approval—73 FR 31813, 6–4–2008). The applicant has also requested permanent authority on behalf of TBSRC, which is the subject of this notice.

The TBSRC shipyard (852 employees, capacity: 1 vessel/year) is located at 1130 McCloskey Boulevard within the Hooker's Point Terminal Complex (Site 5). Under FTZ procedures, TBSRC would construct and repair double-hulled liquid barges and articulating tug barges, cruise ships, ferries, fishing boats, tug boats, dredgers, offshore production platforms, and floating docks for domestic and international customers. Foreign components that would be used at the shipyard (up to 5% of total purchases, by value) include: Diesel engines and parts, turbochargers, stern tubes, anchor chain, aluminum beams, flexible tubing, pumps, heat exchange/cooling units, centrifuges, filters, fire suppression equipment, rudders, bow thrusters, valves, reduction gears, transmission shaft grounding systems and seals, generators and parts, transformers, propellers, speed drive and similar controllers, overfill alarms, automated/steering systems, safety netting (will be admitted in domestic (duty-paid) status), liquid flow measurement instruments, doors, electrical equipment, and deck equipment (*duty rates:* free—14.1%).

FTZ procedures would exempt TBSRC from customs duty payments on the foreign components used in export activity. On its domestic sales, the company could be able to choose the duty rate that applies to finished oceangoing vessels (duty free) for the foreign-origin components noted above. Duties could possibly be deferred or reduced on foreign status production equipment admitted by TBSRC to the zone. The manufacturing and repair activity conducted under FTZ procedures would be subject to the ''standard shipyard restriction'' applicable to foreign-origin steel mill products (*e.g.*, angles, pipe, plate), which requires that all applicable customs duties be paid on such items. The application indicates that the savings from FTZ procedures would help improve the facility's international competitiveness.

In accordance with the Board's regulations, Pierre Duy of the FTZ Staff is designated examiner to investigate the application and report to the Board. Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the following address: Office of the Executive Secretary, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230–0002. The closing period for receipt of comments is April 6, 2009. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to April 20, 2009.

A copy of the application will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at the address listed above and in the ''Reading Room'' section of the Board's Web site, which is accessible via *http://www.trade.gov/ftz.* For further information, contact Pierre Duy at:

pierre_duy@ita.doc.gov, or (202) 482–1378.

Dated: 1/23/09.

Andrew McGilvray,

Executive Secretary.

[FR Doc. E9–2082 Filed 2–3–09; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

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

FOR FURTHER INFORMATION CONTACT: Sheila E. Forbes, Office of AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4697.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (the Act), may request, in accordance with 19 CFR 351.213(2004), that the Department of Commerce (the Department) conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the period of review. We intend to release the CBP data under Administrative Protective Order (APO) to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 20 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. The Department invites comments regarding the CBP data and respondent selection within 10 calendar days of publication of the **Federal Register** initiation notice.

Opportunity to Request a Review: Not later than the last day of February 2009,[1] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in February for the following periods:

	Period of review
Antidumping Duty Proceedings	
BRAZIL: Stainless Steel Bar A–351–825	2/1/08—1/31/09
Frozen Warmwater Shrimp, A–351–838	2/1/08–1/31/09
FRANCE: Uranium, A–427–818	2/1/08–1/31/09
INDIA:	
Certain Cut-to-Length Carbon-Quality Steel Plate, A–533–817	2/1/08–1/31/09
Forged Stainless Steel Flanges, A–533–809	2/1/08–1/31/09
Frozen Warmwater Shrimp, A–533–840	2/1/08–1/31/09
Stainless Steel Bar, A–533–810	2/1/08–1/31/09
Certain Preserved Mushrooms, A–533–813	2/1/08–1/31/09
INDONESIA:	
Certain Cut-to-Length Carbon-Quality Steel Plate, A–560–805	2/1/08–1/31/09
Certain Preserved Mushrooms, A–560–802	2/1/08–1/31/09
ITALY:	
Certain Cut-to-Length Carbon-Quality Steel Plate, A–475–826	2/1/08–1/31/09
Stainless Steel Butt-Weld Pipe Fittings, A–475–828	2/1/08–1/31/09
JAPAN:	
Carbon Steel Butt-Weld Pipe Fittings, A–588–602	2/1/08–1/31/09
Certain Cut-to-Length Carbon-Quality Steel Plate, A–588–847	2/1/08–1/31/09
Stainless Steel Bar, A–588–833	2/1/08–1/31/09
MALAYSIA: Stainless Steel Butt-Weld Pipe Fittings, A–557–809	2/1/08–1/31/09
PHILIPPINES: Stainless Steel Butt-Weld Pipe Fittings, A–565–801	2/1/08–1/31/09
REPUBLIC OF KOREA:	
Certain Cut-to-Length Carbon-Quality Steel Plate, A–580–836	2/1/08–1/31/09
Stainless Steel Butt-Weld Pipe Fittings, A–580–813	2/1/08–1/31/09
TAIWAN: Forged Stainless Steel Flanges, A–583–821	2/1/08–1/31/09
THAILAND: Frozen Warmwater Shrimp, A–549–822	2/1/08–1/31/09
THE PEOPLE'S REPUBLIC OF CHINA:	
Axes/adzes, A–570–803	2/1/08–1/31/09
Bars/wedges, A–570–803	2/1/08–1/31/09
Certain Preserved Mushrooms, A–570–851	2/1/08–1/31/09
Frozen Warmwater Shrimp, A–570–893	2/1/08–1/31/09
Hammers/sledges, A–570–803	2/1/08–1/31/09
Natural Bristle Paint Brushes and Brush Heads, A–570–501	2/1/08–1/31/09
Picks/mattocks, A–570–803	2/1/08–1/31/09
SOCIALIST REPUBLIC OF VIETNAM: Frozen Warmwater Shrimp, A–552–802	2/1/08–1/31/09

[1] Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when the Department is closed.

Countervailing Duty Proceedings	Period of review
FRANCE: Uranium, C–427–819	1/1/08–12/31/08
INDIA:	
Certain Cut-to-Length Carbon-Quality Steel Plate, C–533–818	1/1/08–12/31/08
Prestressed Concrete Steel Wire Strand, C–533–829	1/1/08–12/31/08
INDONESIA: Certain Cut-to-Length Carbon-Quality Steel Plate, C–560–806	1/1/08–12/31/08
ITALY: Certain Cut-to-Length Carbon-Quality Steel Plate, C–475–827	1/1/08–12/31/08
REPUBLIC OF KOREA: Certain Cut-to-Length Carbon-Quality Steel Plate, C–580–837	1/1/08–12/31/08

Suspension Agreements

None.

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters.[2] If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Please note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

[2] If the review request involves a non-market economy and the parties subject to the review request do not qualify for separate rates, all other exporters of subject merchandise from the non-market economy country who do not have a separate rate will be covered by the review as part of the single entity of which the named firms are a part.

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), the Department has clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders. *See also* the Import Administration Web site at *http://ia.ita.doc.gov.*

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Operations, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of February 2009. If the Department does not receive, by the last day of February 2009, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from use, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: January 29, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–2321 Filed 2–3–09; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–839]

Certain Polyester Staple Fiber From the Republic of Korea: Extension of Time Limit for the Preliminary Results of the 2007–2008 Antidumping Duty Administrative Review

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

EFFECTIVE DATE: January 31, 2009.

FOR FURTHER INFORMATION CONTACT: Andrew McAllister or Brandon Farlander, AD/CVD Operations, Office 1, Import Administration, International Trade 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 July 1, 2008, the Department published a notice of initiation of an administrative review of the antidumping duty order on certain polyester staple fiber from the Republic of Korea, covering the period May 1, 2007, through April 30, 2008. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 73 FR 37409 (July 1, 2008). The preliminary results for this review are currently due no later than January 31, 2009.

Extension of Time Limits for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), requires the Department of Commerce

(''Department'') to issue the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested and the final results within 120 days after the date on which the preliminary results are published. If it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend these deadlines to a maximum of 365 days and 180 days, respectively.

The Department requires additional time to review and analyze the respondent's sales and cost information and to issue supplemental questionnaires. Thus, it is not practicable to complete this review within the previously established time limit (*i.e.*, by January 31, 2009). Therefore, the Department is extending the time limit for completion of these preliminary results by 120 days to no later than May 31, 2009, in accordance with section 751(a)(3)(A) of the Act. As May 31, 2009 falls on a Sunday, our preliminary results will be issued no later than June 1, 2009, the next business day. The final results continue to be due 120 days after the publication of the preliminary results.

We are issuing and publishing this notice in accordance with sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: January 27, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–2240 Filed 2–3–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–801]

Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Extension of Time Limits for the Preliminary Results of the New Shipper Reviews

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

EFFECTIVE DATE: February 4, 2009.

FOR FURTHER INFORMATION CONTACT: Tim Lord (Cadovimex II) or Alexis Polovina (SAMEFICO), AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–7524 and (202) 482–3927, respectively.

SUPPLEMENTARY INFORMATION:

Background

The notice announcing the antidumping duty order on certain frozen fish fillets from Vietnam was published in the **Federal Register** on August 12, 2003. *See Notice of Antidumping Duty Order: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 47909 (August 12, 2003). On August 8, 2008, and August 26, 2008, we received timely requests for new shipper reviews from Saigon–Mekong Fishery Co., Ltd. (''SAMEFICO'') and Cadovimex II Seafood Import–Export and Processing Joint Stock Company (''Cadovimex II'') in accordance with 19 CFR 351.214(c) and 351.214(d)(2). On October 1, 2008, the Department published a notice of initiation of new shipper reviews of certain frozen fish fillets from the Socialist Republic of Vietnam covering the period of August 1, 2007, through July 31, 2008. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Initiation of Antidumping Duty New Shipper Reviews*, 73 FR 57058, (October 1, 2008). The preliminary results are currently due no later than March 24, 2009.

Statutory Time Limits

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the ''Act''), provides that the Department will issue the preliminary results of a new shipper review of an antidumping duty order within 180 days after the day on which the review was initiated. *See also* 19 CFR 351.214 (i)(1). The Act further provides that the Department may extend that 180-day period to 300 days if it determines that the case is extraordinarily complicated. *See also* 19 CFR 351.214 (i)(2).

Extension of Time Limit of Preliminary Results

The Department determines that these new shipper reviews involve extraordinarily complicated methodological issues such as the examination of importer information and the evaluation of the *bona fide* nature of each company's sales. In addition, the Department needs additional time to evaluate the complicated multiple stages of production. Therefore, in accordance with section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2), the Department is extending the time limit for these preliminary results by 120 days, until no later than July 22, 2009. The final results continue to be due 90 days after the publication of the preliminary results.

We are issuing and publishing this notice in accordance with sections 751(a)(2)(B)(iv) and 777(i) of the Act.

Dated: January 27, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E9–2356 Filed 2–3–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of Revocation of Export Trade Certificate of Review Previously Issued to C-Shore International (Application No. 99–00001).

SUMMARY: The Secretary of Commerce issued an Export Trade Certificate of Review to C-Shore International on April 8, 1999. Because this Certificate Holder has failed to file an annual report as required by law, the Secretary is revoking the certificate. This notice summarizes the notification letter sent to C-Shore International.

FOR FURTHER INFORMATION CONTACT: Jeffrey Anspacher, Director, Export Trading Company Affairs, International Trade Administration, 202/482–5131. This is not a Toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (''The Act'') (Pub. L. 97–290, 15 U.S.C. 4011–21) Authorizes the Secretary of Commerce to Issue Export Trade Certificates of Review. The Regulations Implementing Title III *(''the Regulations'')* are found at 15 CFR Part 325 (1999). Pursuant to this Authority, a Certificate of Review was issued on April 8, 1999 to C-Shore International.

A Certificate Holder is required by law to submit to the Secretary of Commerce annual reports that update financial and other information relating to business activities covered by its Certificate (Section 308 of the Act, 15 U.S.C. 4018, Section 325.14(a) of the Regulations, 15 CFR 325.14(a)). The annual report is due within 45 days after the anniversary date of the issuance of the Certificate of Review (Sections 325.14(b) of the Regulations, 15 CFR 325.14(b)). Failure to submit a complete annual report may be the basis for revocation (Sections 325.10(a) and 325.14(c) of the Regulations, 15 CFR 325.10(a)(3) and 325.14(c)). On March 29, 2008, the Secretary of Commerce sent to C-Shore International a letter containing annual report questions,

stating that its annual report was due on May 23, 2008. Reminders were sent on the following dates:

August 22, 2008, October 3, 2008, and December 15, 2008. The Secretary has received no written response from C-Shore International to any of these letters. On December 15, 2008, and in accordance with Section 325.10(c)(1) of the Regulations (15 CFR 325.10(c)(1)), the Secretary of Commerce sent a letter by certified mail to notify C-Shore International, that the Secretary was formally initiating the process to revoke its Certificate for failure to file an annual report. The Secretary has received no response from C-Shore International. Pursuant to Section 325.10(c)(2) of the Regulations (15 CFR 325.10(c)(2)), the Secretary considers the failure of C-Shore International, to respond to be an admission of the statements contained in the notification letter. The Secretary has determined to revoke the Certificate issued to C-Shore International for its failure to file an annual report. The Secretary has sent a letter, dated January 21, 2009, to notify C-Shore International of this final determination.

The revocation is effective thirty (30) days from the date of publication of this notice (325.10(c)(4) of the Regulations, 15 CFR 325.10(c)). Any person aggrieved by this decision may appeal to an appropriate U.S. District Court within 30 days from the date of publication of this notice in the **Federal Register** ''(15 CFR 325.11 of the Regulations).''

January 21, 2009.

Jeffrey Anspacher,

Director, Export Trading Company Affairs.

[FR Doc. E9–2294 Filed 2–3–09; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Request for Panel Review.

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of First Request for Panel Review.

SUMMARY: On January 16, 2009, Evonik Degussa Corporation (formerly Degussa Corporation), filed a First Request for Panel Review with the Mexican Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel Review was requested of the Final resolution of the Countervailing Duty Administrative Review, regarding the importation of Hydrogen Peroxide originating from the United States of America, classified in Tariff item 2847.00.01 of the Mexican Tariff Schedule. This determination was published in the Diario Oficial de la Federación, on December 18, 2008. The NAFTA Secretariat has assigned Case Number MEX–USA–2009–1904–01 to this request.

FOR FURTHER INFORMATION CONTACT: Valerie Dees, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, NW., Washington, DC 20230. (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') established a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada, and the Government of Mexico established Rules of Procedure for Article 1904 Binational Panel Reviews (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the Mexican Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on January 16, 2009, requesting a panel review of the determination and order described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is February 16, 2009);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is March 2, 2009); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in panel review and the procedural and substantive defenses raised in the panel review.

Dated: January 29, 2009.

Valerie Dees,

United States Secretary, NAFTA Secretariat.

[FR Doc. E9–2278 Filed 2–3–09; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Application for the NOAA Commissioned Corps

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before April 6, 2009.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to LCDR Holly Jablonski, (301) 713–7731 or *Holly.Jablonski@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The NOAA Commissioned Corps is the uniformed component of the National Oceanic and Atmospheric Administration (NOAA), a bureau of the Department of Commerce. Officers serve under Senate-confirmed appointments and Presidential commissions (33 U.S.C., Chapter 17, Subchapter 1, Sections 853 and 854). The NOAA Corps provides a cadre of professionals trained in engineering, earth sciences, oceanography, meteorology, fisheries

science, and other related disciplines who are dedicated to the service of their country and optimization of NOAA's missions to ensure the economic and physical well-being of the Nation. NOAA Corps officers serve in assignments throughout NOAA, as well as in each of NOAA's Line Offices (National Environmental Satellite, Data, and Information Service, National Marine Fisheries Service, National Ocean Service, National Weather Service, Office of Oceanic and Atmospheric Research, and Office of Program, Planning, and Integration). Persons wishing to be considered for a NOAA Corps Commission must submit a complete application package, including NOAA Form 56–42, three letters of recommendation, and official transcripts. A personal interview must also be conducted. Eligibility requirements include a bachelor's degree in science, engineering, or another discipline related to NOAA's missions, excellent health, normal color vision with uncorrected visual acuity no worse than 20/400 in each eye (correctable to 20/20), and ability to complete 20 years of active duty service prior to their 62nd birthday.

II. Method of Collection

Respondents must submit paper forms via mail in postage-paid envelopes.

III. Data

OMB Control Number: 0648–0047.

Form Number: NOAA Forms 56–42, 56–42A, and 56–42D.

Type of Review: Regular submission.

Affected Public: Individuals or households.

Estimated Number of Respondents: 130.

Estimated Time Per Response: 3 hours.

Estimated Total Annual Burden Hours: 390.

Estimated Total Annual Cost to Public: $1,024.

IV. Request for Comments

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

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 30, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9–2299 Filed 2–3–09; 8:45 am]

BILLING CODE 3510–22–P

DEPARATMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XM96

NOAA to Transfer Ownership of John N. Cobb to Seattle Maritime Academy

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

SUMMARY: The National Oceanic and Atmospheric Administration's Office of Marine and Aviation Operations propose to donate NOAA Ship *John N. Cobb* to Seattle Central Community College: Seattle Maritime Academy under the Stevenson-Wydler Technology Innovation Act of 1980.

DATES: Comments must be received by March 6, 2009. Also, there will be a public meeting held to obtain public comments at the Marine Operations Center–Pacific at 1800, February 17, 2009.

ADDRESSES: The meeting will be held at 1801 Fairview Avenue East, Seattle, WA 98102. You may submit comments to *chad.cary@noaa.gov*.

FOR FURTHER INFORMATION CONTACT: LT Chad Cary by email *chad.cary@noaa.gov* or phone (206) 553–7916.

SUPPLEMENTARY INFORMATION:

Background

John N. Cobb, decommissioned August 13, 2008, had been an active research vessel for 58 years. The National Historic Preservation Act of 1966 requires that federal properties meeting historical criteria are to be recognized as historical assets. As a result of *John N. Cobb's* length of service, significant contributions to the community and historic architectural design, the vessel has been determined eligible and is scheduled to make the National Register of Historic Places spring of 2009. Upon being determined eligible, the vessel became subject to rules and regulations described in 36 CFR Part 800: Protection of Historic Properties–The Section 106 Process.

Seattle Central Community College: Seattle Maritime Academy is an eligible recipient of *John N. Cobb* under the Stevenson-Wydler Technology and Innovation Act of 1980 and consequently submitted a request for the vessel to the Commanding Officer, Marine Operations Center–Pacific. This request includes a strategy for continued use and preservations of the vessel. The Office of Marine and Aviation Operations is confident the Academy possesses the necessary resources to continue the preservation effort. Seattle Maritime Academy is a reputable organization and will likely serve *John N. Cobb* well in future sea going years. Prior to transferring the vessel to Seattle Maritime Academy, NOAA, the Washington State Historic Preservation Office and the Advisory Council on Historic Preservation will establish a memorandum of agreement including preservation covenants.

Dated: January 28, 2009.

Jonathan W. Bailey,

NOAA Director, Office of Marine and Aviation Operations.

[FR Doc. E9–2374 Filed 2–3–09; 8:45 am]

BILLING CODE 3510–12–S

DEPARTMENT OF ENERGY

Biological and Environmental Research Advisory Committee

AGENCY: Department of Energy; Office of Science.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Biological and Environmental Research Advisory Committee. Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, February 18, 2009, 8:30 a.m. to 5:30 p.m. and Thursday, February 19, 2009, 8:30 a.m. to 12:30 p.m., E.S.T.

ADDRESSES: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, North Bethesda, MD 20852.

FOR FURTHER INFORMATION CONTACT: Dr. David Thomassen (301–903–9817; *david.thomassen@science.doe.gov*) Designated Federal Officer, Biological and Environmental Research Advisory Committee, U.S. Department of Energy, Office of Science, Office of Biological and Environmental Research, SC–23/

Germantown Building, 1000 Independence Avenue, SW., Washington, DC 20585–1290. The most current information concerning this meeting can be found on the Web site: *http://www.science.doe.gov/ober/berac/announce.html.*

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: To provide advice on a continuing basis to the Director, Office of Science of the Department of Energy, on the many complex scientific and technical issues that arise in the development and implementation of the Biological and Environmental Research Program.

Tentative Agenda

- Report from the Office of Science.
- Report from the Office of Biological and Environmental Research.
- Presentation of Workshop Reports.
- News from the Biological Systems Science and Climate and Environmental Sciences Divisions.
- Update on Joint Genome Institute Strategic Planning.
- Report on the BER Climate Sciences Strategic Plan.
- BER Response to Life and Medical Sciences Division Committee of Visitors Report.
- BERAC Discussion of Strategy for Developing a 20-Year Planning Horizon for Biological and Environmental Research.
- New Business.
- Public Comment.

Public Participation: The day and a half meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact David Thomassen at the address or telephone number listed above. You must make your request for an oral statement at least five business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of this meeting will be available for public review and copying within 45 days at the BERAC Web site: *http://www.science.doe.gov/ober/berac/Minutes.html.*

Issued in Washington, DC on January 29, 2009.

Rachel M. Samuel,

Deputy Committee Management Officer.

[FR Doc. E9–2354 Filed 2–3–09; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Hydrogen and Fuel Cell Technical Advisory Committee (HTAC)

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

ACTION: Notice of open meeting.

SUMMARY: The Hydrogen and Fuel Cell Technical Advisory Committee (HTAC) was established under section 807 of the Energy Policy Act of 2005 (EPACT), Public Law No. 109–58; 119 Stat. 849. The Federal Advisory Committee Act, Public Law No. 92–463, 86 Stat. 770, requires that agencies publish notice of an advisory committee meeting in the **Federal Register**. To attend the meeting and/or to make oral statements during the public comment period, please e-mail *HTAC@nrel.gov* at least 5 business days before the meeting. Please indicate if you will be attending the meeting both days or a specific day, if you want to make an oral statement on February 19, 2009, and what organization you represent (if appropriate).

DATES: Wednesday, February 18, 2009, from 8:30 a.m.–5:30 p.m. and Thursday, February 19, 2009, from 9 a.m.–2:45 p.m.

ADDRESSES: Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: *HTAC@nrel.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: To provide advice, information, and recommendations to the Secretary on the program authorized by title VIII of EPACT.

Tentative Agenda (Subject to change; updates will be posted on *http://hydrogen.energy.gov* and copies of the final agenda will be available the date of the meeting).

The following items will be covered on the agenda:

- Perspectives on the Role of Hydrogen in the Obama Administration.
- Hydrogen Program Response to the GAO Comment on Technical Targets.
- Jobs in the Hydrogen and Fuel Cell Industry.
- Draft and Discussion on the HTAC Annual Report.
- Hydrogen Policy Analysis by Argus Research.
- Progress in Low Platinum and No-Platinum Catalysts.
- Fuel Cell Investment Tax Credit.
- Open Discussion.
- Next Steps.

Public Participation: In keeping with procedures, members of the public are welcome to observe the business of the meeting of HTAC and to make oral statements during the specified period for public comment. The public comment period will take place between 9 a.m. and 9:30 a.m. on February 19, 2009. To attend the meeting and/or to make oral statements regarding any of the items on the agenda, e-mail *HTAC@nrel.gov* at least 5 business days before the meeting. Please indicate if you will be attending the meeting on both days or a particular day, if you want to make an oral statement, and what organization you represent (if appropriate). Members of the public will be heard in the order in which they sign up for the public comment period. Oral comments should be limited to two minutes in length. Reasonable provision will be made to include the scheduled oral statements on the agenda. The chair of the committee will make every effort to hear the views of all interested parties and to facilitate the orderly conduct of business. If you would like to file a written statement with the committee, you may do so either by submitting a hard copy at the meeting or by submitting an electronic copy to *HTAC@nrel.gov.*

Minutes: The minutes of the meeting will be available for public review at *http://hydrogen.energy.gov.*

Issued at Washington, DC on January 29, 2009.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. E9–2352 Filed 2–3–09; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC09–716–001]

Commission Information Collection Activities (FERC–716); Comment Request; Submitted for OMB Review

January 28, 2009.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice.

SUMMARY: In compliance with the requirements of section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507, the Federal Energy Regulatory Commission (Commission) has submitted the information collection described below to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments directly with OMB

and should address a copy of those comments to the Commission as explained below. The Commission received no comments in response to the **Federal Register** notice (73FR70988, 11/24/2008) and has made this notation in its submission to OMB.

DATES: Comments on the collection of information are due by March 11, 2009.

ADDRESSES: Address comments on the collection of information to the Office of Management and Budget, Office of Information and Regulatory Affairs, *Attention:* Federal Energy Regulatory Commission Desk Officer. Comments to OMB should be filed electronically, c/o *oira_submission@omb.eop.gov* and include OMB Control No. 1902–0170 as a point of reference. The Desk Officer may be reached by telephone at 202–395–7345.

A copy of the comments should also be sent to the Federal Energy Regulatory Commission and should refer to Docket No. IC09–716–001. Comments may be filed either electronically or in paper format. Those persons filing electronically do not need to make a paper filing. Documents filed electronically via the Internet must be prepared in an acceptable filing format and in compliance with the Federal Energy Regulatory Commission submission guidelines. Complete filing instructions and acceptable filing formats are available at *http://www.ferc.gov/help/submission-guide/electronic-media.asp.* To file the document electronically, access the Commission's website and click on Documents & Filing, E-Filing (*http://www.ferc.gov/docs-filing/efiling.asp*), and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments.

For paper filings, an original and 2 copies of the comments should be submitted to the Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426, and should refer to Docket No. IC09–716–001.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the ''eLibrary'' link. For user assistance, contact *fercolinesupport@ferc.gov* or toll-free at (866) 208–3676 or for TTY, contact (202) 502–8659.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 502–8415, by fax at (202) 273–0873, and by e-mail at *michael.miller@ferc.gov.*

SUPPLEMENTARY INFORMATION: The FERC is combining the requirements from both FERC–716 (''Good Faith Request for Transmission Service and Response by Transmitting Utility Under Sections 211(a) and 213(a) of the Federal Power Act'' (OMB No. 1902–0170)) and FERC–716A (''Application for Transmission Services Under Section 211 of the Federal Power Act'' (OMB No. 1902–0168)) for publication purposes into a single notice. In addition, the requirements will be labeled FERC–716 and consolidated into a single OMB control no. (OMB No. 1902–0170).

The information collected under the requirements of FERC–716 ''Good Faith Request for Transmission Service and Response by Transmitting Utility Under Sections 211(a) and 213 (a) of the Federal Power Act'' (existing/current OMB No. 1902–0170) is used by the Commission to implement the statutory provisions of sections 211 and 213 of the Federal Power Act (FPA) as amended and added by the Energy Policy Act 1992. For the initial process, the information is not filed with the Commission, however, the request and response may be analyzed as a part of a section 211 proceeding. This collection of information covers the information that must be contained in the request and in the response. Should the parties be unable to resolve outstanding issues, an application may be submitted to the FERC. The Commission may order transmission services under the authority of FPA 211.

The Energy Policy Act of 1992 amended section 211 of the FPA and expanded the Commission's authority to order transmission service. Under the revised section 211, the Commission may order transmission services if it finds that such action would be in the public interest, would not unreasonably impair the continued reliability of electric systems affected by the order, and would meet the requirements of amended section 211 of the FPA.

The Commission's policy statement under Public Law 93–3, Policy Statement Regarding Good Faith Requests for Transmission Services and Responses by Transmitting Utilities Under Section 211(a) and 213(a) of the Federal Power Act, as Amended, implemented a data exchange between a transmission requester and a transmitting utility prior to the submission of a section 211 request with the Commission. Components of the data exchange are identified in the Code of Federal Regulations (CFR), 18 CFR 2.20. The general policy sets forth standards by which the Commission determines whether and when a valid good faith request for transmission has been made under section 211 of the FPA. In developing the standards, the Commission sought to encourage an open exchange of information with a reasonable degree of specificity and completeness between the party requesting transmission services and the transmitting utility. As a result, 18 CFR 2.20 identifies twelve components of a good faith estimate and five components of a reply to a good faith request.

Information in the data exchange is not filed as noted above with the Commission, unless negotiations between the transmission requestor and the transmitting utility have not been successful and the transmission requestor files a section 211 request (formerly FERC–716A, OMB No. 1902–0168, and incorporated herein) with the Commission.

When negotiations are unsuccessful, the information collected for the ''Application for Transmission Services Under Section 211 of the Federal Power Act'' is used by the Commission to implement the statutory provisions of section 211 of the Federal Power Act (FPA) 16 U.S.C. (824) as amended by the Energy Policy Act 1992 (Pub. L. 102–486) 106 Stat. 2776. Under section 211, the Commission may order transmission services if it finds that such action would be in the public interest and would not unreasonably impair the continued reliability of systems affected by the order. The requirements are detailed in the Code of Federal Regulations (CFR) under 18 CFR Part 36.

Action: The Commission is requesting a three-year extension of the current expiration date, with no change to the existing collection of data.

Burden Statement: Public reporting burden for this collection is estimated as:

FERC Data collection—FERC–716	Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours [1] (1) × (2) × (3)
Information exchange between parties	3	1	100	300

FERC Data collection—FERC–716	Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours [1] (1) × (2) × (3)
Application submitted to FERC if parties' negotiations are unsuccessful	3	1	2.5	8
TOTAL [1]	3	2		308

For the information exchange, the estimated cost burden [1] to respondents is $18,228 (300 hours/2080 [2] hours per year times $126,384 [3] per year average per employee = $18,228). The cost per respondent is $6,076. For the application to FERC, the estimated cost burden [1] to respondents is $486 (8 hours/2080 hours per year times $126,384 per year average per employee = $486). The cost per respondent is $162.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization, rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–2287 Filed 2–3–09; 8:45 am]

BILLING CODE 6717–01–P

[1] The figures may not be exact, due to rounding.

[2] Number of hours an employee works each year.

[3] Average annual salary per employee.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

January 16, 2009.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP09–128–001.

Applicants: Texas Gas Transmission, LLC.

Description: Texas Gas Transmission, LLC submits Third Revised Sheet 1801 et al. to FERC Gas Tariff, Third Revised Volume 1.

Filed Date: 01/14/2009.

Accession Number: 20090116–0108.

Comment Date: 5 p.m. Eastern Time on Monday, January 26, 2009.

Docket Numbers: RP09–214–000.

Applicants: Gas Transmission Northwest Corporation.

Description: Gas Transmission Northwest Corp submits a refund report reflecting interruptible transportation revenue credits on their Coyote Springs Later for the period of 11/1/07–10/31/08.

Filed Date: 01/14/2009.

Accession Number: 20090116–0107.

Comment Date: 5 p.m. Eastern Time on Monday, January 26, 2009.

Docket Numbers: CP06–459–002.

Applicants: Transwestern Pipeline Company, LLC.

Description: Application of Transwestern Pipeline Company, LLC to amend initial incremental transportation rates for the Phoenix Expansion Project.

Filed Date: 01/07/2009.

Accession Number: 20090108–5014.

Comment Date: 5 p.m. Eastern Time on Wednesday, January 21, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

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

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail

notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9–2344 Filed 2–3–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

January 30, 2009.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP09–70–001.
Applicants: Texas Eastern Transmission LP.
Description: Texas Eastern Transmission, LP submits Sub Seventh Revised Sheet 529 *et al.* to its FERC Gas Tariff, Seventh Revised Volume 1, to be effective 1/1/09.
Filed Date: 01/21/2009.
Accession Number: 20090123–0372.
Comment Date: 5 p.m. Eastern Time on Wednesday, February 04, 2009.

Docket Numbers: RP09–71–001.
Applicants: Saltville Gas Storage Company L.L.C.
Description: Saltville Gas Storage Company, LLC submits Sub Second Revised Sheet 114 *et al.* to its FERC Gas Tariff, Original Volume 1, to be effective 1/1/09.
Filed Date: 01/21/2009.
Accession Number: 20090123–0373.
Comment Date: 5 p.m. Eastern Time on Wednesday, February 04, 2009.

Docket Numbers: RP09–72–001.
Applicants: Algonquin Gas Transmission Company.
Description: Algonquin Gas Transmission, LLC submits Sub Third Revised Sheet 533 *et al.* part to its FERC Gas Tariff, Fifth Revised Volume 1, to be effective 1/1/09.
Filed Date: 01/21/2009.
Accession Number: 20090123–0374.
Comment Date: 5 p.m. Eastern Time on Wednesday, February 04, 2009.

Docket Numbers: RP09–73–001.
Applicants: Maritimes & Northeast Pipeline, L.L.C.
Description: Maritimes & Northeast Pipeline, LLC submits Sub Fourth Revised Sheet 246 *et al.* to its FERC Gas Tariff, First Revised Volume 1, to be effective 1/1/09.
Filed Date: 01/21/2009.
Accession Number: 20090123–0376.
Comment Date: 5 p.m. Eastern Time on Wednesday, February 04, 2009.

Docket Numbers: RP09–76–001.
Applicants: East Tennessee Natural Gas, LLC.
Description: East Tennessee Natural Gas, LLC submits Substitute Fifth Revised Sheet 339 *et al.* to its FERC Gas Tariff, Third Revised Volume 1, to be effective 1/1/09.
Filed Date: 01/21/2009.
Accession Number: 20090123–0375.
Comment Date: 5 p.m. Eastern Time on Wednesday, February 04, 2009.

Docket Numbers: RP09–202–001.
Applicants: Midwestern Gas Transmission Company.
Description: Midwestern Gas Transmission Company submits Sub Sixteenth Revised Sheet 273 to its FERC Gas Tariff, Third Revised Volume 1, to be effective 2/1/09.
Filed Date: 01/21/2009.
Accession Number: 20090123–0377.
Comment Date: 5 p.m. Eastern Time on Wednesday, February 04, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

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

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9–2346 Filed 2–3–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

January 29, 2009.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP09–280–000.
Applicants: Midwestern Gas Transmission Company.
Description: Midwestern Gas Transmission Company submits Twelfth Revised Sheet 5 *et al.*, to FERC Gas Tariff, Original Volume 1, to be effective 2/1/09.
Filed Date: 01/26/2009.
Accession Number: 20090127–0197.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–281–000.
Applicants: Energy West Development, Inc.
Description: Energy West Development, Inc., submits Third Revised Sheet 23 *et al.*, to FERC Gas Tariff, Volume 1, to be effective 2/26/09.
Filed Date: 01/26/2009.
Accession Number: 20090127–0198.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–282–000.
Applicants: Tennessee Gas Pipeline Company.
Description: Tennessee Gas Pipeline Company submits Fourth Revised Sheet 325 *et al.*, to FERC Gas Tariff, Fifth Revised Volume 1.
Filed Date: 01/26/2009.
Accession Number: 20090127–0199.
Comment Date: 5 p.m. Eastern Time on Monday, February 09, 2009.

Docket Numbers: RP09–283–000.
Applicants: Iroquois Gas Transmission System, LP.
Description: Iroquois Gas Transmission System, LP submits Thirty First Revised Sheet 4 *et al.*, to FERC Gas Tariff, First Revised Volume 1, to be effective 1/27/09.
Filed Date: 01/26/2009.
Accession Number: 20090127–0317.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–284–000.
Applicants: El Paso Natural Gas Company.
Description: El Paso Natural Gas Company submits Ninth Revised Sheet 214A *et al.*, to FERC Gas Tariff, Second Revised Volume 1A.
Filed Date: 01/26/2009.
Accession Number: 20090127–0318.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–285–000.
Applicants: Central Kentucky Transmission Company.
Description: Central Kentucky Transmission Company submits First Revised Sheet 134 *et al.*, to FERC Gas Tariff, Second Revised Volume 1.
Filed Date: 01/26/2009.
Accession Number: 20090127–0320.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–286–000.
Applicants: Crossroads Pipeline Company.
Description: Crossroads Pipeline Company submits Second Revised Sheet 176 *et al.*, to FERC Gas Tariff, Second Revised Volume 1, to be effective 2/26/09.
Filed Date: 01/26/2009.
Accession Number: 20090127–0319.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–287–000.
Applicants: Young Gas Storage Company, Ltd.
Description: Young Gas Storage Company, Ltd., submits Second Revised Sheet 53A *et al.*, to FERC Gas Tariff, Original Volume 1.
Filed Date: 01/26/2009.
Accession Number: 20090127–0321.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–288–000.
Applicants: Southern Natural Gas Company.
Description: Southern Natural Gas Company submits Seventieth Revised Sheet 14 *et al.*, to FERC Gas Tariff, Seventh Revised Volume 1.
Filed Date: 01/26/2009.
Accession Number: 20090127–0322.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–289–000.
Applicants: Columbia Gas Transmission, LLC.
Description: Columbia Gas Transmission, LLC submits Second Revised Sheet 131 *et al.*, to FERC Gas Tariff, Second Revised Volume 1.
Filed Date: 01/26/2009.
Accession Number: 20090127–0324.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–290–000.
Applicants: Black Marlin Pipeline Company.
Description: Black Marlin Pipeline Company submits Fifth Revised Sheet 213 *et al.*, to FERC Gas Tariff, First Revised Volume 1.
Filed Date: 01/26/2009.
Accession Number: 20090127–0323.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–291–000.
Applicants: Discovery Gas Transmission LLC.
Description: Discovery Gas Transmission LLC submits Fifth Revised Sheet 151 *et al.*, to FERC Gas Tariff, Original Volume 1.
Filed Date: 01/26/2009.
Accession Number: 20090127–0325.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–292–000.
Applicants: Dominion South Pipeline Company, LP.
Description: Dominion South Pipeline Company, LP, submits First Revised Sheet 1043 *et al.*, to FERC Gas Tariff, Original Volume 1.
Filed Date: 01/26/2009.
Accession Number: 20090127–0131.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–293–000.
Applicants: Dominion Cove Point LNG, LP.
Description: Dominion Cove Point LNG, LP, submits Fourth Revised Sheet 72 *et al.*, to FERC Gas Tariff, Original Volume 1.
Filed Date: 01/26/2009.
Accession Number: 20090127–0130.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–294–000.
Applicants: Columbia Gas Transmission, LLC.
Description: Columbia Gas Transmission, LLC submits Seventh Revised Sheet 351 *et al.*, to FERC Gas Tariff, Second Revised Volume 1.
Filed Date: 01/26/2009.
Accession Number: 20090127–0129.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–295–000.
Applicants: Colorado Interstate Gas Company.
Description: Colorado Interstate Gas Company submits Sixth Revised Sheet 241A *et al.*, to FERC Gas Tariff, First Revised Volume 1.
Filed Date: 01/26/2009.
Accession Number: 20090127–0128.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–296–000.
Applicants: Carolina Gas Transmission Corporation.
Description: Carolina Gas Transmission Corporation submits revised tariff sheets as part of Carolina Gas Transmission Corporation, FERC Gas Tariff, Original Volume 1.
Filed Date: 01/26/2009.
Accession Number: 20090127–0127.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–297–000.
Applicants: Gulfstream Natural Gas System, L.L.C.
Description: Gulfstream Natural Gas System, LLC, submits Second Revised Sheet 176 *et al.*, to its FERC Gas Tariff, Original Volume 1, to be effective 2/26/09.
Filed Date: 01/26/2009.
Accession Number: 20090127–0125.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–298–000.
Applicants: Egan Hub Storage, LLC.
Description: Egan Hub Storage, LLC, submits Second Revised Sheet 113 *et al.,* to be effective 2/26/09.
Filed Date: 01/26/2009.
Accession Number: 20090127–0126.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–299–000.
Applicants: Wyoming Interstate Company, Ltd.
Description: Wyoming Interstate Company, Ltd, submits Seventh Revised Sheet 54A *et al.*, to be effective 2/25/09.
Filed Date: 01/26/2009.
Accession Number: 20090127–0124.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–300–000.
Applicants: Cheyenne Plains Gas Pipeline Company, LLP.
Description: Cheyenne Plains Gas Pipeline Company, LLP, submits Second Revised Sheet 315 *et al.*, effective 2/25/09.
Filed Date: 01/26/2009.
Accession Number: 20090127–0123.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–301–000.
Applicants: Gulf South Pipeline Company, LP.

Description: Gulf South Pipeline Company, LP, submits Second Revised Sheet 3600 *et al.*, to FERC Gas Tariff, Sixth Revised Volume 1, to be effective 3/1/09.

Filed Date: 01/26/2009.

Accession Number: 20090128–0101.

Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–302–000.

Applicants: Tuscarora Gas Transmission Company.

Description: Tuscarora Gas Transmission Company submits revised tariff sheets to be part of its FERC Gas Tariff, Original Volume 1.

Filed Date: 01/26/2009.

Accession Number: 20090128–0104.

Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–303–000.

Applicants: Gulf Crossing Pipeline Company LLC.

Description: Gulf Crossing Pipeline, Company LLC submits First Revised Sheet 1050 *et al.*, to FERC Gas Tariff, Original Volume 1.

Filed Date: 01/26/2009.

Accession Number: 20090128–0103.

Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–304–000.

Applicants: Texas Gas Transmission, LLC.

Description: Texas Gas Transmission, LLC, submits First Revised Sheet 2800 *et al.*, to FERC Gas Tariff, Third Revised Volume 1.

Filed Date: 01/26/2009.

Accession Number: 20090128–0102.

Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–305–000.

Applicants: Texas Gas Transmission, LLC.

Description: Texas Gas Transmission, LLC, submits a report which compares cash-out revenues with cash-out costs incurred for the annual billing period of 11/1/07–10/31/08.

Filed Date: 01/27/2009.

Accession Number: 20090128–0224.

Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–306–000.

Applicants: Kern River Gas Transmission Company.

Description: Kern River Gas Transmission Co., submits Eighth Revised Sheet 140 *et al.*, to FERC Gas Tariff, Second Revised Volume 1 to be effective 7/30/08.

Filed Date: 01/27/2009.

Accession Number: 20090128–0225.

Comment Date: 5 p.m. Eastern Time on Monday, February 09, 2009.

Docket Numbers: RP09–307–000.

Applicants: Gulf States Transmission Corporation.

Description: Gulf States Transmission Corp., submits Fourth Revised Sheet 58J *et al.*, to FERC Gas Tariff, Original Volume 1 to be effective 3/1/09.

Filed Date: 01/27/2009.

Accession Number: 20090128–0223.

Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–308–000.

Applicants: Rockies Express Pipeline LLC.

Description: Rockies Express Pipeline, LLC, submits Second Revised Sheet 1 *et al.*, to FERC Gas Tariff, Second Revised Volume 1.

Filed Date: 01/27/2009.

Accession Number: 20090128–0222.

Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

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

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9–2347 Filed 2–3–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

January 29, 2009.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP99–301–228.

Applicants: ANR Pipeline Company.

Description: ANR Pipeline Company submits an amendment to its Rate Schedule FSS negotiated rate agreement with Wisconsin Public Service Corp.

Filed Date: 01/23/2009.

Accession Number: 20090126–0309.

Comment Date: 5 p.m. Eastern Time on Wednesday, February 4, 2009.

Docket Numbers: RP99–301–229.

Applicants: ANR Pipeline Company.

Description: ANR Pipeline Company submits amendments to two Rate Schedule ETS negotiated rate agreements.

Filed Date: 01/23/2009.

Accession Number: 20090126–0308.

Comment Date: 5 p.m. Eastern Time on Wednesday, February 4, 2009.

Docket Numbers: RP99–301–230.

Applicants: ANR Pipeline Company.

Description: ANR Pipeline Company submits amendments to Rate Schedule ETS negotiated rate agreement.

Filed Date: 01/23/2009.

Accession Number: 20090126–0307.

Comment Date: 5 p.m. Eastern Time on Wednesday, February 4, 2009.

Docket Numbers: RP09–258–000.

Applicants: Questar Pipeline Company.

Description: Questar Pipeline Company submits Title Page and Second Revised Sheet 21 *et al.* to FERC Gas Tariff, Second Revised Volume 1, to be effective 3/1/09.

Filed Date: 01/23/2009.

Accession Number: 20090126–0306.

Comment Date: 5 p.m. Eastern Time on Wednesday, February 4, 2009.

Docket Numbers: RP09–259–000.
Applicants: Williston Basin Interstate Pipeline Company.
Description: Williston Basin Interstate Pipeline Company submits their filing to comply with Order 712 and to update Section 17 of its FERC Gas Tariff, Second Revised Volume 1.
Filed Date: 01/26/2009.
Accession Number: 20090126–0305
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–260–000.
Applicants: Tres Palacios Gas Storage, LLC.
Description: Tres Palacios Gas Storage LLC submits First Revised Sheet 2 *et al.* to its FERC Gas Tariff, Original Volume 1 in compliance with FERC Order No. 712, to be effective 2/25/09.
Filed Date: 01/26/2009.
Accession Number: 20090127–0172.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–261–000.
Applicants: CenterPoint Energy Gas Transmission Company.
Description: CenterPoint Energy Gas Transmission Company submits Second Revised Sheet No. 536 *et al.* to FERC Gas Tariff, Sixth Revised Volume No. 1, to be effective 2/25/09.
Filed Date: 01/26/2009.
Accession Number: 20090127–0170.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–262–000.
Applicants: CenterPoint Energy—Mississippi River Transmission Corporation.
Description: CenterPoint Energy-Mississippi River Transmission Corporation submits Seventh Revised Sheet No. 165 *et al.* to FERC Gas Tariff, Third Revised Volume No. 1, to be effective 2/25/09.
Filed Date: 01/26/2009.
Accession Number: 20090127–0169.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–263–000.
Applicants: Honeoye Storage Corporation.
Description: Honeoye Storage Corp submits Second Revised Sheet No. 13 *et al.* to FERC Gas Tariff, Original Volume No. 1, to be effective 2/21/09.
Filed Date: 01/26/2009.
Accession Number: 20090127–0168.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–264–000.
Applicants: TransColorado Gas Transmission Company, LLC.
Description: TransColorado Gas Transmission Company, LLC submits Second Revised Sheet No. 219 *et al.* to FERC Gas Tariff, Second Revised Volume No. 1, to be effective 2/26/09.
Filed Date: 01/26/2009.
Accession Number: 20090127–0167.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–265–000.
Applicants: Kinder Morgan Interstate Gas Trans. LLC.
Description: Kinder Morgan Interstate Gas Transmission LLC submits First Revised Sheet No. 46 *et al.* to FERC Gas Tariff, Fourth Revised Volume No. 1–B, to be effective 2/26/09.
Filed Date: 01/26/2009.
Accession Number: 20090127–0166.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–266–000.
Applicants: Rockies Express Pipeline, LLC.
Description: Rockies Express Pipeline LLC submits First Revised Sheet No. 173 *et al.* to FERC Gas Tariff, Second Revised Volume No. 1, to be effective 2/26/09.
Filed Date: 01/26/2009.
Accession Number: 20090127–0165.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–267–000.
Applicants: Empire Pipeline, Inc.
Description: Empire Pipeline, Inc submits First Revised Sheet No. 163 *et al.* to FERC Gas Tariff, Original Revised Volume No. 1, to be effective 2/25/09.
Filed Date: 01/26/2009.
Accession Number: 20090127–0171.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–268–000.
Applicants: Clear Creek Storage Company, LLC.
Description: Clear Creek Storage Company, LLC submits Second Revised Sheet 4 *et al.* to FERC Gas Tariff, Original Volume 1, to be effective 2/25/09.
Filed Date: 01/26/2009.
Accession Number: 20090127–0157.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–269–000.
Applicants: National Fuel Gas Supply Corporation.
Description: National Fuel Gas Supply Corporation submits Third Revised Sheet 356 *et al.* to FERC Gas Tariff, Fourth Revised Volume 1, to be effective 2/25/09.
Filed Date: 01/26/2009.
Accession Number: 20090127–0156.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–270–000.
Applicants: Questar Pipeline Company.
Description: Questar Pipeline Company submits Forty-Seventh Revised Sheet 5 *et al.* to FERC Gas Tariff, First Revised Volume 1, to be effective 2/25/09.
Filed Date: 01/26/2009.
Accession Number: 20090127–0160.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–271–000.
Applicants: Rendezvous Pipeline Company, LLC.
Description: Rendezvous Pipeline Company, LLC submits First Revised Sheet 50 *et al.* to FERC Gas Tariff, Original Volume 1, to be effective 2/25/09.
Filed Date: 01/26/2009.
Accession Number: 20090127–0158.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–272–000.
Applicants: Paiute Pipeline Company.
Description: Paiute Pipeline Co submits Fourth Revised Sheet 104 *et al.* to FERC Gas Tariff, Second Revised Volume 1–A.
Filed Date: 01/26/2009.
Accession Number: 20090127–0159.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–273–000.
Applicants: Mojave Pipeline Company.
Description: Mojave Pipeline Company submits Second Revised Sheet 1 *et al.*, to be effective 2/25/09.
Filed Date: 01/26/2009.
Accession Number: 20090127–0122.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–274–000.
Applicants: Hardy Storage Company, LLC.
Description: Hardy Storage Company, LLC submits Second Revised Sheet 110 *et al.* to FERC Gas Tariff, Second Revised Volume 1.
Filed Date: 01/26/2009.
Accession Number: 20090127–0135.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–275–000.
Applicants: Columbia Gulf Transmission Company.
Description: Columbia Gulf Transmission Company submits Fifth Revised Sheet 191 *et al.* to FERC Gas Tariff, Second Revised Volume 1.
Filed Date: 01/26/2009.
Accession Number: 20090127–0134.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–276–000.
Applicants: Southeast Supply Header, LLC.
Description: Southeast Supple Header, LLC submits First Revised Sheet 303 *et al.* to FERC Gas Tariff, Original Volume 1.

Filed Date: 01/26/2009.
Accession Number: 20090127–0133.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–277–000.
Applicants: Dominion Transmission, Inc.
Description: Dominion Transmission, Inc submits Fourth Revised Sheet 1142 *et al.* to FERC Gas Tariff, Third Revised Volume 1.
Filed Date: 01/26/2009.
Accession Number: 20090127–0132.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–278–000.
Applicants: OkTex Pipeline Company, LLC.
Description: OkTex Pipeline Company, LLC submits Sixth Revised Sheet 17 *et al.* to FERC Gas Tariff, Original Volume 1.
Filed Date: 01/26/2009.
Accession Number: 20090127–0196.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Docket Numbers: RP09–279–000.
Applicants: Viking Gas Transmission Company.
Description: Viking Gas Transmission Company submits Third Revised Sheet 13A *et al.* to FERC Gas Tariff, Original Volume 1, to be effective 2/1/09.
Filed Date: 01/26/2009.
Accession Number: 20090127–0195.
Comment Date: 5 p.m. Eastern Time on Monday, February 9, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

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

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,
Deputy Secretary.
[FR Doc. E9–2348 Filed 2–3–09; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP09–43–000]

Heavenly Valley, L.P.; Notice of Intent To Prepare an Environmental Assessment for the Proposed Powderbowl Pipeline Project and Request for Comments on Environmental Issues

January 28, 2009.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the potential environmental impacts of a pipeline project proposed by Heavenly Valley, L.P. (Heavenly Valley). The Powderbowl Pipeline Project involves the construction of a 1.86-mile-long, 4-inch-diameter natural gas pipeline in Douglas County, Nevada and El Dorado County, California. The EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. Your input will help determine which issues need to be evaluated in the EA. Please note that the scoping period will close on February 27, 2009. Details on how to submit comments are provided in the ''Public Participation'' section of this notice.

This notice is being sent to affected landowners; federal, state, and local government representatives and agencies; elected officials; Native American tribes; other interested parties; and local libraries and newspapers. State and local government representatives are asked to notify their constituents of this proposed project and to encourage them to comment on their areas of concern. We anticipate that the U.S. Forest Service (USFS) will participate as a cooperating agency in the preparation of the EA.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' addresses a number of typically-asked questions and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*).

Summary of the Proposed Project

Heavenly Valley proposes to construct 1.86 miles of 4-inch-diameter natural gas pipeline to service the future Powderbowl Lodge (planned for construction in 2009). The pipeline would begin at an existing Southwest Gas Corporation meter station in Douglas County, Nevada and terminate approximately 1.86 miles southwest at the Powderbowl Lodge site in El Dorado County, California. The pipeline would parallel an existing access road and utility corridor. Existing access roads would be used for pipeline construction. The project is located entirely within the Heavenly Mountain Ski Resort, on land owned by the USFS and leased to Heavenly Valley under a 40 year Ski Area Special Use Permit issued in 1997. Construction of the project would temporarily impact approximately 7.9 acres. Upon completion of the project, 2.3 acres would be maintained as permanent easement.

In addition, Heavenly Valley seeks approval to continue operation of a 4,500-foot-long, 2- and 3-inch diameter pipeline installed in 2000 by the previous resort owner to provide natural gas to resort facilities[1]. This existing

[1] Heavenly Valley stated that the prior resort owners believed the pipeline could be constructed as a ''house'' line or ''plant'' line not subject to FERC jurisdiction. Heavenly Valley was alerted to the fact that the existing pipeline may be subject to FERC jurisdiction when it initiated discussions

Continued

pipeline, referred to as the Gondala/Mid-Station Pipeline, is also located entirely within the Heavenly Valley property. No ground disturbance or new environmental impacts would occur from continued operation of this pipeline.

A map showing the general location of the proposed project is included as appendix 1.[2]

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent (NOI), the Commission staff requests public comments on the scope of the issues to address in the EA. All comments received will be considered during the preparation of the EA.

In the EA, we[3] will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- land use;
- cultural resources;
- vegetation and wildlife;
- air quality and noise;
- endangered and threatened species;
- public safety.

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to federal, state, and local agencies; public interest groups; interested individuals; affected landowners; newspapers; libraries; and the Commission's official service list for this proceeding. A comment period will be allotted for the review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission. To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

Public Participation

You can make a difference by providing us with your specific comments or concerns about Heavenly Valley's Powderbowl Pipeline Project. Your comments should focus on the potential environmental effects of the proposal, reasonable alternatives, and measures to avoid or lessen the environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send in your comments so that they will be received in Washington, DC on or before February 27, 2009.

For your convenience, there are three methods which you can use to submit your comments to the Commission. In all instances please reference the project docket number (CP09–43–000) with your submission. The Commission encourages electronic filing of comments and has dedicated eFiling expert staff available to assist you at 202–502–8258 or *eFiling@ferc.gov.*

(1) You may file your comments electronically by using the *Quick Comment* feature, which is located on the Commission's Internet Web site at *http://www.ferc.gov* under the link to *Documents and Filings.* A Quick Comment is an easy method for interested persons to submit text-only comments on a project;

(2) You may file your comments electronically by using the *eFiling* feature, which is located on the Commission's Internet Web site at *http://www.ferc.gov* under the link to *Documents and Filings.* eFiling involves preparing your submission in the same manner as you would if filing on paper, and then saving the file on your computer's hard drive. You will attach that file as your submission. New eFiling users must first create an account by clicking on ''*Sign up*'' or ''*eRegister.*'' You will be asked to select the type of filing you are making. A comment on a particular project is considered a ''Comment on a Filing;'' or

(3) You may file your comments via mail by sending an original and two copies of your letter to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426.

Label one copy of the comments for the attention of Gas Branch 1, PJ–11.1.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an ''intervenor,'' which is an official party to the proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in a Commission proceeding by filing a request to intervene. Instructions for becoming an intervenor are included in the User's Guide under the ''e-Filing'' link on the Commission's Web site.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the ''eLibrary'' link. Click on the eLibrary link, then on ''General Search'' and enter the docket number excluding the last three digits (i.e., CP09–43) in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm.*

Finally, any public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–2290 Filed 2–3–09; 8:45 am]

BILLING CODE 6717–01–P

with Southwest Gas to obtain increased service for the Powderbowl Pipeline.

[2] The appendix referenced in this notice is not being printed in the **Federal Register**. Copies of the appendix are available on the Commission's Web site at the ''eLibrary'' link or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or by calling (202) 502–8371. For instructions on connecting to eLibrary, refer to the ''Additional Information'' section of this notice. Copies of the appendix were sent to all those receiving this notice in the mail. Requests for detailed maps of the proposed facilities should be made directly to Heavenly Valley.

[3] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the FERC's Office of Energy Projects.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL08–80–003]

American Electric Power Service Corporation; Notice of Filing

January 28, 2009.

Take notice that on January 26, 2009, American Electric Power Service Corporation, on behalf of AEP East and AEP West Companies filed a refund report, pursuant to the Commission's November 26, 2008 Order, *Corporation Commission of the State of Oklahoma* v. *American Electric Power Company,* 125 FERC ¶ 61,237 (2008) (the November 26 Order) and the Notice of Extension of Time issued December 18, 2008.

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

Kimberly D. Bose,

Secretary.

[FR Doc. E9–2285 Filed 2–3–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL05–72–006]

Dynegy Midwest Generation, Inc.; Notice of Filing

January 28, 2009.

Take notice that on January 9, 2009, Dynegy Midwest Generation, Inc. filed a compliance filing for Rate Schedule FERC No. 5, pursuant to the Commission's December 9, 2008 Order Denying in Part, and Granting in Part, Rehearing in Dynegy Midwest Generation, Inc., 125 FERC ¶ 61,280 (2008) (Rehearing Order).

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 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: 5 p.m. Eastern Time on January 30, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–2284 Filed 2–3–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ08–4–001]

East Kentucky Power Cooperative, Inc.; Notice of Filing

January 28, 2009.

Take notice that on January 15, 2009, East Kentucky Power Cooperative, Inc. filed amendments to Attachment M, ''Transmission Planning Processes'' of its safe harbor Open Access Transmission Tariff, in compliance with the Commission's Order Conditionally Granting Petition for Declaratory Order, *East Kentucky Power Cooperative, Inc.,* 125 FERC ¶ 61, 077 (2007).

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 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: 5 pm Eastern Time on February 5, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–2288 Filed 2–3–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12646–001—Oklahoma]

City of Broken Bow, OK; Pine Creek Lake Dam Hydroelectric Project; Notice of Revised Restricted Service List for a Programmatic Agreement for Managing Properties Included in or Eligible for Inclusion in the National Register of Historic Places

January 28, 2009.

On November 17, 2008, the Federal Energy Regulatory Commission (Commission) issued notice of a proposed restricted service list for the preparation of a programmatic agreement for managing properties included in, or eligible for inclusion in, the National Register of Historic Places at the Pine Creek Lake Dam Hydroelectric Project No. 126468. Rule 2010(d)(1) of the Commission's Rules of Practice and Procedure, 18 CFR 2010(d)(1) (2005), provides for the establishment of such a list for a particular phase or issue in a proceeding to eliminate unnecessary expense or improve administrative efficiency. Under Rule 2010(d)(4), persons on the official service list are to be given notice of any proposal to establish a restricted service list and an opportunity to show why they should also be included on the restricted service list or why a restricted service list should not be established.

On January 23, 2009, Willard B. Smith, consulting engineer for the applicant, responded to the notice, requesting to be included in the restricted service list. Under Rule 2010(d)(2), any restricted service list will contain the names of each person on the official service list, or the person's representative, who, in the judgment of the decisional authority establishing the list, is an active participant with respect to the phase or issue in the proceeding for which the list is established. Mr. Smith, as the applicant's consultant, has an identifiable interest in issues as they relate to the management of historic properties at the Pine Creek Lake Dam Project. Therefore, he will be added to the restrictive service list.

Accordingly, the restricted service list issued on November 17, 2008, for the Pine Creek Lake Dam Project No. 126468 is revised to add the following person: Willard B. Smith, P.E., CFM, HISINC, L.L.C., 28508 W. 41st Street South, Mannford, OK 74044.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–2289 Filed 2–3–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP09–117–000]

El Paso Natural Gas Company; Notice of Technical Conference

January 28, 2009.

Take notice that the Commission will convene a technical conference in the above-referenced proceedings on Thursday, February 26, 2009, at 10 a.m. (EDT), in a room to be designated at the offices of the Federal Energy Regulatory Commission (Commission), 888 First Street, NE., Washington, DC 20426.

The Commission's December 30, 2008, Order [1] in Docket No. RP09–117–000 directed that a technical conference be held to address issues raised by El Paso Natural Gas Company's (El Paso) November 26, 2008, filing of its annual restatement of its Fuel and Lost and Unaccounted-For (L&U) percentages. Commission Staff and interested persons will have the opportunity to discuss all of the issues raised by El Paso's filing including but not limited to the issues raised in the protests. El Paso should be prepared to address all the concerns raised in the protests, and to provide, as necessary, additional support for its filing.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or 202–502–8659 (TTY), or send a fax to 202–208–2106 with the required accommodations.

All interested persons are permitted to attend. For further information please contact Andrew Knudsen at (202) 502–6527 or e-mail *Andrew.Knudsen@ferc.gov*.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–2283 Filed 2–3–09; 8:45 am]

BILLING CODE 6717–01–P

[1] *El Paso Natural Gas Company,* 125 FERC ¶ 61,372 (2008).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER06–615–000; ER07–1257–000; ER08–1113–000]

California Independent System, Operator Corporation; Notice of FERC Staff Attendance

January 28, 2009.

The Federal Energy Regulatory Commission (Commission) hereby gives notice that on the following dates members of its staff will participate in teleconferences to be conducted by the California Independent System Operator (CAISO). The agenda and other documents for the teleconferences are available on the CAISO's Web site, *http://www.caiso.com.*

January 30, 2009—Teleconference on MRTU Pricing Review

February 2, 2009—Teleconference on MRTU Systems Testing

February 3, 2009—Teleconference on MRTU Parallel Operations

February 10, 2009—Teleconference on MRTU Parallel Operations

Sponsored by the CAISO, the teleconferences are open to all market participants, and Commission staff's attendance is part of the Commission's ongoing outreach efforts. The teleconferences may discuss matters at issue in the above captioned dockets.

For further information, contact Saeed Farrokhpay at *saeed.farrokhpay@ferc.gov*; (916) 294–0233 or Maury *Kruth at maury.kruth@ferc.gov*, (916) 294–0275.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–2286 Filed 2–3–09; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8769–1]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Consent Decree; Request for Public Comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''CAA'' or ''Act''), 42 U.S.C. 7413(g), notice is hereby given of a proposed consent decree to address a lawsuit filed by Environmental Integrity Project, Community Power & Development Association, Inc., Public Citizen's Texas Office, and Refinery Reform Campaign (collectively ''Plaintiffs'') in the United States District Court for the District of Columbia: *Environmental Integrity Project, et al.* v. *Johnson*, No.1:09–cv–00087 PLF, (D.D.C.). Plaintiffs filed a deadline suit to compel the Administrator to respond to an administrative petition seeking EPA's objection to a CAA Title V operating permit issued by the Texas Commission on Environmental Quality to Premcor Refining Group, Inc. (''Premcor'') for a refinery in Port Arthur, Texas. Under the terms of the proposed consent decree, EPA has agreed to respond to the petition by April 30, 2009.

DATES: Written comments on the proposed consent decree must be received by *March 6, 2008.*

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2009–0049, online at *www.regulations.gov* (EPA's preferred method); by e-mail to *oei.docket@epa.gov*; by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Leslie Darman, Office of General Counsel (Mail Code 2355A), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone: (202) 564–5452; fax number (202) 564–5477; e-mail address: *darman.leslie@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Consent Decree

This proposed consent decree would resolve a lawsuit seeking a response to an administrative petition to object to a CAA Title V permit issued by the Texas Commission on Environmental Quality to Premcor for a refinery in Port Arthur, Texas. Under the terms of the proposed consent decree, EPA has agreed to respond to the petition by April 30, 2009. In addition, the proposed consent decree states that within fifteen (15) business days EPA shall deliver notice of such action to the Office of the Federal Register for prompt publication.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines, based on any comment submitted, that consent to this consent decree should be withdrawn, the terms of the decree will be affirmed.

II. Additional Information About Commenting on the Proposed Consent Decree

A. How Can I Get A Copy of the Consent Decree?

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2009–0049) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center 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 OEI Docket is (202) 566–1752.

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

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and to Whom Do I Submit Comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD–ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. 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.

Use of the *www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (e-mail) system is not an ''anonymous access'' system. If you send an e-mail comment directly to the Docket without going through *www.regulations.gov*, your e-mail address is automatically captured and included as part of the comment that is placed in the official public

docket, and made available in EPA's electronic public docket.

Dated: January 16, 2009.

Richard B. Ossias,

Associate General Counsel.

[FR Doc. E9–2341 Filed 2–3–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8768–9]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Consent Decree; Request for Public Comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''CAA''), 42 U.S.C. 7413(g), notice is hereby given of a proposed consent decree to address a lawsuit filed by Environmental Integrity Project, Refinery Reform Campaign, Citizens For Environmental Justice, and Suzie Canales (collectively ''Plaintiffs'') in the United States District Court for the District of Columbia: *Environmental Integrity Project, et al.* v. *Johnson,* No. 1:09–cv–00088 RJL (D.D.C.). Plaintiffs filed a deadline suit to compel the Administrator to respond to an administrative petition seeking EPA's objection to a CAA Title V operating permit issued by the Texas Commission on Environmental Quality to Citgo Refining and Chemicals Company (''Citgo'') for a refinery plant in Corpus Christi, Texas. Under the terms of the proposed consent decree, EPA has agreed to respond to the petition by April 30, 2009.

DATES: Written comments on the proposed consent decree must be received by March 6, 2009.

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2009–0048, online at *www.regulations.gov* (EPA's preferred method); by e-mail to *oei.docket@epa.gov;* by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Leslie Darman, Office of General Counsel (Mail Code 2355A), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone: (202) 564–5452; fax number (202) 564–5477; e-mail address: *darman.leslie@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Consent Decree

This proposed consent decree would resolve a lawsuit seeking a response to an administrative petition to object to a CAA Title V permit issued by the Texas Commission on Environmental Quality to Citgo for a refinery plant in Corpus Christi, Texas. Under the terms of the proposed consent decree, EPA has agreed to respond to the petition by April 30, 2009. In addition, the proposed consent decree states that within fifteen (15) business days EPA shall deliver notice of such action to the Office of the Federal Register for prompt publication.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines, based on any comment submitted, that consent to this consent decree should be withdrawn, the terms of the decree will be affirmed.

II. Additional Information About Commenting on the Proposed Consent Decree

A. How Can I Get a Copy of the Consent Decree?

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2009–0048) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center 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 OEI Docket is (202) 566–1752.

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

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and To Whom Do I Submit Comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD–ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. 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.

Use of the *www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (e-mail) system is not an ''anonymous access'' system. If you send an e-mail comment directly to the Docket without going through *www.regulations.gov,* your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: January 16, 2009.

Richard B. Ossias,

Associate General Counsel.

[FR Doc. E9–2342 Filed 2–3–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2008–0941; FRL–8399–1]

Pesticide Experimental Use Permit; Receipt of Amendment/Extension Application; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's receipt of an application 524–EUP–1 from Monsanto Company requesting to amend and extend an experimental use permit (EUP) for the plant-incorporated protectant (PIP) *Bacillus thuringiensis* Cry1Ac protein and the genetic material necessary for its production (vector PV-GMIR9) in MON 87701 soybean. The Agency has determined that the permit may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting comments on this application.

DATES: Comments must be received on or before March 6, 2009.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2008–0941, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington,VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2008–0941. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Alan Reynolds, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 605–0515; e-mail address: *reynolds.alan@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons interested in agricultural biotechnology or those who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA) or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying

information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

3. *Environmental justice*. EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide(s) discussed in this document, compared to the general population.

II. What Action is the Agency Taking?

Under section 5 of FIFRA, 7 U.S.C. 136c, EPA can allow manufacturers to field test pesticides under development. Manufacturers are required to obtain an EUP before testing new pesticides or new uses of pesticides if they conduct experimental field tests on 10 acres or more of land or one acre or more of water.

Pursuant to 40 CFR 172.11(a), the Agency has determined that the following EUP application may be of regional and national significance, and therefore is seeking public comment on the EUP application:

Submitter: Monsanto Company, (524–EUP–1).

Pesticide Chemical: *Bacillus thuringiensis* Cry1Ac protein and the genetic material necessary for its production (vector PV-GMIR9) in MON 87701 soybean.

Summary of Request: Monsanto Company has requested an amendment and extension of permit 524–EUP–1, which was first granted by EPA on September 13, 2007 and extended on April 11, 2008. Under the existing EUP, plantings are permitted through July 31, 2009. Monsanto is now proposing to extend the experimental program until December 31, 2010 and to amend it by conducting testing with up to 0.466 pounds of Cry1Ac protein and the genetic material necessary for its production in MON 87701 soybean on 1,362 acres (282.86 acres of non-PIP and border rows are also proposed for a total of 1,644.86 acres). Two trial protocols will be conducted, including:

- Breeding and observation.
- Regulatory trials.

States and Commonwealth involved in the trials include: Arkansas, Illinois, Indiana, Kentucky, Maryland, Missouri, North Carolina, Puerto Rico, South Carolina, and Virginia.

A copy of the application and any information submitted is available for public review in the docket established for this EUP application as described under **ADDRESSES**.

Following the review of the application and any comments and data received in response to this solicitation, EPA will decide whether to issue or deny the EUP request, and if issued, the conditions under which it is to be conducted. Any issuance of an EUP will be announced in the **Federal Register**.

List of Subjects

Environmental protection, Experimental use permits.

Dated: January 16, 2009.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. E9–2361 Filed 2–3–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8766–9]

Notice of Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as Amended; Atlas Iron and Metal Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice, request for public comments.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), as amended, 42 U.S.C. 9622(i), notice is hereby given of a proposed Administrative Agreement for Recovery of Past Response Costs (''Agreement,'' Region 9 Docket No. 9–2009–04) pursuant to Section 122(h) of CERCLA concerning the Atlas Iron and Metal Site (the ''Site''), located in Los Angeles, Los Angeles County, California. The settling parties are S&W Atlas Iron and Metal Co., Inc., and 10019 S. Alameda LLC (''Respondents''). Through the proposed Agreement, the Respondents will reimburse the United States $74,000 for response costs incurred at the Site. The Agreement provides Respondents with a covenant not to sue for response costs at the Site, and contribution protection. For thirty (30) days following the date of publication of this Notice, the Agency will receive written comments relating to the proposed Agreement. The Agency's response to any comments received will be available for public inspection at EPA's Region IX offices, located at 75 Hawthorne Street, San Francisco, California 94105.

DATES: Comments must be submitted on or before March 6, 2009.

ADDRESSES: The proposed Agreement may be obtained from Andrew Helmlinger, in the Office of Regional Counsel, telephone (415) 972–3904. Comments regarding the proposed Agreement should be addressed to Andrew Helmlinger at the U.S. Environmental Protection Agency (ORC–3), 75 Hawthorne Street, San Francisco, California 94105, and should reference the Atlas Iron and Metal Site Agreement, and Region IX Docket No. 9–2009–04.

FOR FURTHER INFORMATION CONTACT: Andrew Helmlinger, Office of Regional Counsel, (415) 972–3904, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

Dated: January 6, 2009.

Keith A. Takata,

Director, Superfund Division.

[FR Doc. E9–2340 Filed 2–3–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8770–8]

EPA Science Advisory Board Staff Office; Request for Nominations of Experts for EPA Science Advisory Board, Scientific and Technological Achievement Awards Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office is requesting nominations for experts to serve on a SAB Scientific and Technological Achievement Awards (STAA) Committee. This Committee will review peer-reviewed publications from EPA scientists and makes recommendations for awards.

DATES: Nominations should be submitted by February 25, 2009 per instructions below.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding this Notice and Request for Nominations may contact Mr. Edward Hanlon, Designated Federal Officer (DFO), SAB Staff Office, by telephone/voice mail at (202) 343–9946; by fax at (202) 233–0643 or via email at *hanlon.edward@epa.gov*. General information concerning the EPA Science Advisory Board can be found at the EPA SAB Web site at *http://www.epa.gov/sab*.

SUPPLEMENTARY INFORMATION: EPA's Scientific and Technological Achievement Awards (STAA) was established in 1980 to recognize Agency scientists and engineers who published their work in the peer-reviewed literature. The STAA Program is an Agency-wide competition to promote and recognize scientific and technological achievements by EPA employees. The STAA program is administered and managed by EPA's Office of Research and Development (ORD). Each year the EPA Science Advisory Board has been asked to review scientific publications nominated by EPA managers and make recommendations to the Administrator for awards. The SAB Staff Office is announcing the formation of a new ad hoc STAA Committee. This Committee will serve for a three year period, and review nominated publications and recommend awards for 2009 through 2011. The SAB is chartered under the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. App.). The Committee will comply with the provisions of FACA and SAB procedural policies, including the SAB process for Committee formation that is described further on the SAB Web site at *http://yosemite.epa.gov/sab/sabproduct.nsf/WebSABSO/OverviewPanelForm?OpenDocument*. The Committee will hold closed meetings to review nominated scientific publications and make monetary award recommendations.

Request for Nominations

The SAB Staff Office is soliciting nominations of nationally and internationally recognized scientists and engineers with documented research experience to serve on the STAA Committee. Nominations are requested in the areas of: Environmental Exposure, Transport and Fate; Environmental Monitoring and Methods; Environmental Control Systems and Risk Management; Ecosystems and Ecological Risk Assessment; Human Health and Risk Assessment; and Social and Decision Sciences.

Process and Deadline for Submitting Nominations: Any interested person or organization may nominate qualified individuals to be considered for appointment on this SAB Committee. Candidates may also nominate themselves. Nominations should be submitted in electronic format (which is preferred over hard copy) following the instructions for ''Nominating Experts to Advisory Panels and Ad Hoc Committees Being Formed'' provided on the SAB Web site. The form can be accessed through the ''Nomination of Experts'' link on the blue navigational bar on the SAB Web site at *http://www.epa.gov/sab*. To receive full consideration, nominations should include all of the information requested.

EPA's SAB Staff Office requests contact information about the person making the nomination; contact information about the nominee; the disciplinary and specific areas of expertise of the nominee; the nominee's curriculum vitae; sources of recent grant and/or contract support; and a biographical sketch of the nominee indicating current position, educational background, research activities, and recent service on other national advisory committees or national professional organizations.

Persons having questions about the nomination procedures, or who are unable to submit nominations through the SAB Web site, should contact Mr. Edward Hanlon, DFO, at the contact information provided above in this notice. Non-electronic submissions must follow the same format and contain the same information as the electronic.

The SAB Staff Office will acknowledge receipt of the nomination and inform nominees of the panel for which they have been nominated. From the nominees identified by respondents to this **Federal Register** notice (termed the ''Widecast'') and other sources, the SAB Staff Office will develop a smaller subset (known as the ''Short List'') for more detailed consideration. The Short List will be posted on the SAB Web site at *http://www.epa.gov/sab* and will include, for each candidate, the nominee's name and biosketch. Public comments on the Short List will be accepted for 21 calendar days. During this comment period, the public will be requested to provide information, analysis, or other documentation on nominees that the SAB Staff Office should consider in evaluating candidates for the Panel.

For the SAB a balanced panel is characterized by inclusion of candidates who possess the necessary domains of knowledge, the relevant scientific perspectives (which, among other factors, can be influenced by work history and affiliation), and the collective breadth of experience to adequately address the charge. Public responses to the Short List candidates will be considered in the selection of the panel, along with information provided by candidates and information gathered by SAB Staff independently concerning the background of each candidate (e.g., financial disclosure information and computer searches to evaluate a nominee's prior involvement with the topic under review). Specific criteria to be used in evaluation of an individual Panel member include: (a) Scientific and/or technical expertise, knowledge, and experience (primary factors); (b) absence of financial conflicts of interest; (c) scientific credibility and impartiality; (d) availability and willingness to serve; and (e) ability to work constructively and effectively in committees.

Prospective candidates will be required to fill-out the ''Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency'' (EPA Form 3110–48). This confidential form allows Government officials to determine whether there is a statutory conflict between that person's public responsibilities (which includes membership on an EPA Federal advisory committee) and private interests and activities, or the appearance of a lack of impartiality, as defined by Federal regulation. Ethics information, including EPA Form 3110–48, is available on the SAB Web site at

http://yosemite.epa.gov/sab/sabproduct.nsf/Web/ethics?OpenDocument.

Dated: January 29, 2009.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. E9–2343 Filed 2–3–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8768–5]

Underground Injection Control Program; Hazardous Waste Injection Restrictions; Petition for Exemption—Class I Hazardous Waste Injection; ExxonMobil Environmental Services Company, Pasadena, TX

AGENCY: Environmental Protection Agency.

ACTION: Notice of a Final Decision on a No Migration Petition.

SUMMARY: Notice is hereby given that an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act have been granted to ExxonMobil Environmental Services Company for a Class I injection well located at Pasadena, Texas. As required by 40 CFR part 148, the company has adequately demonstrated to the satisfaction of the Environmental Protection Agency by the petition and supporting documentation that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision allows the underground injection by ExxonMobil, of the specific restricted hazardous wastes identified in this exemption, into Class I hazardous waste injection well No. WDW–397 at the Agrifos Pasadena Texas Fertilizer facility, Pasadena, Texas, until December 31, 2020, unless EPA moves to terminate this exemption under provisions of 40 CFR 148.24. Additional conditions included in this final decision may be reviewed by contacting the Region 6 Ground Water/UIC Section. As required by 40 CFR 148.22(b) and 124.10, a public notice was issued November 25, 2008. The public comment period closed on January 9, 2009. No comments were received. This decision constitutes final Agency action and there is no Administrative appeal. This decision may be reviewed/appealed in compliance with the Administrative Procedure Act.

DATES: This action is effective as of January 15, 2009.

ADDRESSES: Copies of the petition and all pertinent information relating thereto are on file at the following location: Environmental Protection Agency, Region 6, Water Quality Protection Division, Source Water Protection Branch (6WQ–S), 1445 Ross Avenue, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Philip Dellinger, Chief Ground Water/UIC Section, EPA—Region 6, telephone (214) 665–7150.

Dated: January 15, 2009.

Miguel I. Flores,

Division Director, Water Quality Protection Division.

[FR Doc. E9–2413 Filed 2–3–09; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Economic Impact Policy

This notice is to inform the public that the Export-Import Bank of the United States has received an application to guarantee approximately $15 million in commercial bank financing for the U.S. export of approximately $31 million worth of photovoltaic module manufacturing equipment and services for the construction of a new thin film photovoltaic production facility in Germany. The U.S. exports will enable the German company to produce approximately 21.5 megawatts (MW) worth of amorphous silicon thin film photovoltaic modules per year on average during the 8.5-year repayment term of the loan. Available information indicates that all of this new German production will be consumed in Germany.

Please note that this transaction was first posted in the **Federal Register** on September 25, 2007. Interested parties may submit comments on this transaction by e-mail to *economic.impact@exim.gov* or by mail to 811 Vermont Avenue, NW., Room 1238, Washington, DC 20571, within 14 days of the date this notice appears in the **Federal Register**.

Helene S. Walsh,

Vice President, Policy Analysis.

[FR Doc. E9–2364 Filed 2–3–09; 8:45 am]

BILLING CODE 6690–01–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on February 12, 2009, from 9 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Roland E. Smith, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: This meeting of the Board will be open to the public (limited space available). In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes
- January 8, 2009.

B. New Business
- Spring 2009 Abstract of the Unified Agenda of Federal Regulatory and Deregulatory Actions and Spring 2009 Regulatory Performance Plan.

C. Reports
- Office of Management Services Quarterly Report.

Roland E. Smith,

Secretary, Farm Credit Administration Board.

[FR Doc. E9–2463 Filed 2–2–09; 4:15 pm]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to OMB for Review and Approval, Comments Requested

January 30, 2009.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An

agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before March 6, 2009. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via Internet at *Nicholas_A._Fraser@omb.eop.gov* or via fax at (202) 395–5167 and to Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC or via Internet at *Cathy.Williams@fcc.gov* or *PRA@fcc.gov*. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB control number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0686.

Title: International Section 214 Process and Tariff Requirements—47 CFR Sections 63.10, 63.11, 63.13, 63.18, 63.19, 63.21, 63.24, 63.25 and 1.1311.

Form No.: FCC Forms 214, 214TC and 214STA.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents/Responses: 1,650 respondents; 9,892 responses.

Estimated Time per Response: 1 hour–16 hours.

Frequency of Response: On occasion, annual and quarterly reporting requirements; third party disclosure and recordkeeping requirements.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in 47 U.S.C 21, 34–39, 151, 154(i), 154(j), 161, 201–205, 214, 219, 220, 303(r), 309 and 403.

Total Annual Burden: 33,486 hours.

Annual Cost Burden: $1,976,400.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality.

Needs and Uses: This collection will be submitted to Office of Management and Budget (OMB) as a revision after this 60 day comment period has ended in order to obtain the full three year OMB clearance. This collection will be revised to account for burden estimates that were not previously accounted for, reflect more accurate and true burden estimates and to clarify and clearly state the rule sections that are included under OMB Control No. 3060–0686.

The collection of information is used by the Commission staff in carrying out its duties under the Communications Act. The information collections pertaining to Part 1 of the rules are necessary to determine whether the Commission should grant a license for proposed submarine cables landing in the United States. Pursuant to Executive Order No. 10530, the Commission has been delegated the President's authority under the Cable Landing License Act to grant cable landing licenses, provided that the Commission obtains the approval from the State Department and seeks advice from other government agencies as appropriate. The information collections pertaining to Part 63 are necessary largely to determine the qualifications of applicants to provide common carrier international telecommunications service, including applicants that are affiliated with foreign carriers, and to determine whether and under what conditions the authorizations are in the public interest, convenience, and necessity.

If the collections are not conducted or are conducted less frequently, applicants will not obtain the authorizations necessary to provide telecommunications services, and the Commission will be unable to carry out its mandate under the Communications Act of 1934 and the Cable Landing License Act. In addition, without the information collections, the United States would jeopardize its ability to fulfill the U.S. obligations as negotiated under the World Trade Organization (WTO) Basic Telecom Agreement because these collections are imperative to detecting and deterring anticompetitive conduct. They are also necessary to preserve the Executive Branch agencies' and the Commission's ability to review foreign investments for national security, law enforcement, foreign policy, and trade concerns.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E9–2406 Filed 2–3–09; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; FCC To Hold Open Commission Meeting Thursday, February 5, 2009

January 29, 2009.

The Federal Communications Commission will hold an Open Meeting on Thursday, February 5, 2009, which is scheduled to commence at 2 p.m. in Room TW–C305, at 445 12th Street, SW., Washington, DC.

- The meeting will include presentations and discussion by senior agency officials as well as industry, consumer groups and others involved in the Digital Television Transition.
- The purpose of the meeting is to educate and inform the Commission and the public about the status and issues involved with the upcoming Digital Television Transition.

The meeting site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, and assistive listening devices will be provided on site. Other reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need. Also include a way we can contact you if we need more information. Last minute requests will be accepted, but may be

impossible to fill. Send an e-mail to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Additional information concerning this meeting may be obtained from Audrey Spivack or David Fiske, Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322. Audio/Video coverage of the meeting will be broadcast live with open captioning over the Internet from the FCC's Audio/Video Events Web page at *http://www.fcc.gov/realaudio*.

For a fee this meeting can be viewed live over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. To purchase these services call (703) 993–3100 or go to *http://www.capitolconnection.gmu.edu*.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Best Copy and Printing, Inc. (202) 488–5300; Fax (202) 488–5563; TTY (202) 488–5562. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio and video tape. Best Copy and Printing, Inc. may be reached by e-mail at *FCC@BCPIWEB.com*.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E9–2412 Filed 2–2–09; 11:15 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's Web site (*http://www.fmc.gov*) or contacting the Office of Agreements at (202)-523–5793 or *tradeanalysis@fmc.gov*.

Agreement No.: 012042–001.

Title: MOL / ELJSA Vessel Sharing Agreement.

Parties: Evergreen Lines Joint Service Agreement and Mitsui O.S.K. Lines, Ltd.

Filing Party: Robert B. Yoshitomi, Esq.; Nixon Peabody, LLP; Gas Company Tower; 555 West Fifth Street 46th Floor; Los Angeles, CA 90013.

Synopsis: The amendment expands the U.S. geographic scope to include ports in the range from Tacoma/Seattle, WA to Los Angeles, CA.

By Order of the Federal Maritime Commission.

Dated: January 30, 2009.

Karen V. Gregory,

Secretary.

[FR Doc. E9–2365 Filed 2–3–09; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicants

Anchor Logistix (Canada) Ltd. Dba Anchor Logistix (USA) Ltd., 1030 Kamato Road, Mississauga L4W 4B6 Canada. Officer: Wasim Ahmed, Director (Qualifying Individual).

O.E.C. Shipping Los Angeles Inc., 13100 Alondra Blvd., Cerritos, CA 90703. Officer: John Su, Secretary (Qualifying Individual).

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

YS Solutions, Inc., 25232 Tandem Way, Torrance, CA 90505. Officers: Shawn I. Chiu, CFO (Qualifying Individual), Chi-Huang Ho, CEO.

BTL, Inc., 71 Apollo Street, San Francisco, CA 94124. Officer: Liang Zhen Zhao, President (Qualifying Individual).

BestGuy Moving Services LLC, 18 Van Saun Place, Fair Lawn, NJ 07410. Officers: Guy Drori, Member/Manager (Qualifying Individual).

Rical Air Express, Inc. dba Rical Logistics, One Cross Island Plaza, #227, Rosedale, NY 11422. Officer: Tom N. Novello, Vice President (Qualifying Individual).

HYC Logistics, Inc., 2600 Thousand Oaks Blvd., Memphis, TN 38118. Officer: Velma L. Burks, Export Compliance Officer (Qualifying Individual).

Royal Pacific Shipping, Co., 58 Leslie Street, Newark, NJ 07108. Officers: Roydol Nutty, Vice President (Qualifying Individual), Atta Boamah, President.

Taggart International, Ltd. Dba Taggart Lines, Ltd., 1792 Red Oak Court, Liberty, MO 64068. Officer: Sean K. Scarbrough, President (Qualifying Individual).

World Export & Logistics, Inc., 690 W 20th Street, Hialeah, FL 33010. Officer: Roberto Acevedo, Secretary (Qualifying Individual).

Onward Shipping & Clearing Services Inc., 2305 Oak Lane, Grand Prairie, TX 75051. Officer: Julius Okunola, President (Qualifying Individual).

Flat Rate International LLC, 27 Bruckner Blvd., Bronx, NY 10454. Officers: Yaron Arbietmen, CEO (Qualifying Individual), Sharone Ben Harush, Member/President.

Sitorex Corporation, 5926 Glenoak Avenue, Baltimore, MD 21214. Officer: Emmanuel Ndiaye, President (Qualifying Individual).

Aromark Shipping LLC, 187–189 Foundry Street, Newark, NJ 07105. Officers: Robert Meltser, President (Qualifying Individual), Gabriel Meltser, Vice President.

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants

GAP Forwarding, Inc., 11460 NW 39th Street, Doral, FL 33178. Officer: Patrick Anthony William Scott, President (Qualifying Individual).

ICAT Logistics, Inc., 6805 Douglas Legum Drive, Elkridge, MD 21075. Officer: Daniel M. Frank, Vice President (Qualifying Individual).

Benchmark Export Services, Inc., 108 A Erickson Avenue, Essington, PA 19029. Officer: Scott Hoffman, President (Qualifying Individual).

DEC Global Logistics, LLC, 3803 Clcada Lane, Houston, TX 77039. Officers: David Alfaro, Managing Member (Qualifying Individual), Carlos E. Alfaro, Managing Member.

Empire Global Logistics, LLC, 160–51 Rockaway Blvd., Ste. 206, Jamaica, NY 11434. Officer: Ben Arculli, Manager (Qualifying Individual).

CR International, Ltd., 192 Cherry Hill Road NW., Cedar Rapids, IA 52405. Officer: Roxann M. Von Lienen, President (Qualifying Individual).

JR Transportation, Inc., 7949 Stromesa Ct., San Diego, CA 92126. Officers: Martha G. Alfaro, Vice President (Qualifying Individual), Michael J. Jeffers, President.

Dated: January 30, 2009.

Karen V. Gregory,

Secretary.

[FR Doc. E9–2366 Filed 2–3–09; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Reissuances

Notice is hereby given that the following Ocean Transportation Intermediary licenses have been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. Chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License no.	Name/Address	Date reissued
018784N	Champion Cargo Services, LLC, 9523 Jamacha Blvd., Spring Valley, CA 91977	October 15, 2008.
020535N	Destiny Global Export Corp., 12 Kingsberry Dr., Somerset, NJ 08873	November 13, 2008.
016320N	Eurotrans Systems, Inc., 299 Broadway, Suite 1815, New York, NY 10007	December 12, 2008.
017234N	Ever-Swift Worldwide Inc., Cargo Bldg. 151, Ste. 377, Jamaica, NY 11430	November 25, 2008.
000010F	Footner and Company, Inc., 6610–B Tributary Street, Baltimore, MD 21124	October 8, 2008.
002541F	Kog Transport, Inc., 299 Broadway, Ste. 1815, New York, NY 10007	December 12, 2008.
003490N	Rose International, Inc., dba Rose Maritime Container Line, 410 Ogden Avenue, Jersey City, NJ 07307.	October 30, 2008.
019149F	Uniwide Cargomovers & Travel, Inc., 1232 W. 223rd Street, Torrance, FL 90502	November 8, 2008.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. E9–2367 Filed 2–3–09; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. Chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515, effective on the corresponding date shown below:

License Number: 002723NF.
Name: Air-Oceanic Services, Inc.
Address: 11010 Nw 92nd Terr., Miami, FL 33178.
Date Revoked: November 16, 2008.
Reason: Failed To Maintain Valid Bonds.

License Number: 012114N.
Name: Amerussia Shipping Company Inc.
Address: Amerussia House, 51 Chestnut St., Rutherford, NJ 07070.
Date Revoked: November 6, 2008.
Reason: Surrendered License Voluntarily.

License Number: 002917NF.
Name: Brahm International Ltd.
Address: 3321 W. Rawson Ave., Franklin, WI 53132.
Date Revoked: November 10, 2008.
Reason: Surrendered License Voluntarily.

License Number: 014811NF.
Name: Ceva Ocean Line, Inc.
Address: 15350 Vickery Dr., Houston, TX 77032.
Date Revoked: December 22, 2008.
Reason: Surrendered License Voluntarily.

License Number: 016021F.
Name: Dynalink Global Systems, Inc.
Address: 111–115 F.E. Rodgers Blvd., So., Ste. 308, Harrison, NJ 07029.
Date Revoked: April 21, 2008.
Reason: Surrendered License Voluntarily.

License Number: 011949N.
Name: Eastern Trans Line, Inc.
Address: 500 Nordhoff Pl., Englewood, NJ 07631.
Date Revoked: November 2, 2008.
Reason: Failed To Maintain A Valid Bond.

License Number: 018652N.
Name: Eternity Worldwide Inc. DBA Eternity Int'l Freight Forwarder (USA), Inc.
Address: C/O 1800 West Dr., San Marino, CA 91108–2561.
Date Revoked: November 26, 2008.
Reason: Surrendered License Voluntarily.

License Number: 015072N.
Name: Eti Container Line, Ltd.
Address: 325b W. Lake St., Elmhurst, Il 60126.
Date Revoked: December 5, 2008.
Reason: Surrendered License Voluntarily.

License Number: 019665N.
Name: EZ Logistics, Inc.
Address: 17890 Castleton St., Ste. #306, City Of Industry, CA 91748.
Date Revoked: December 19, 2008.
Reason: Failed To Maintain A Valid Bond.

License Number: 018609N.
Name: Great World Int'l Services, Inc.
Address: 236 West Portal Ave., #772, San Francisco, CA 94127.
Date Revoked: December 31, 2008.
Reason: Surrendered License Voluntarily.

License Number: 020134N.
Name: International Shipping Express, Inc.
Address: 5110 Firestone Pl., So. Gate, CA 90280.
Date Revoked: October 16, 2008.
Reason: Failed To Maintain A Valid Bond.

License Number: 002541F.
Name: KOG Transport, Inc.
Address: 299 Broadway, Ste. 1815, New York, NY 10007.
Date Revoked: December 12, 2008.
Reason: Failed To Maintain A Valid Bond.

License Number: 004160F.
Name: Mid-Atlantic Trade Services, Inc.
Address: P.O. Box 8699 Bwia Amf, Baltimore, MD 21240
Date Revoked: December 2, 2008.
Reason: Surrendered License Voluntarily.

License Number: 018778NF.
Name: Ocean Express Miami LLC DBA Ocean Express.
Address: 7950 Nw 77th Street, Ste. 4, Miami, FL 33166.
Date Revoked: December 16, 2008.
Reason: Surrendered License Voluntarily.

License Number: 019913NF.
Name: Ocean Express Shipping, LLC DBA Ocean Express.
Address: 411 North Harbor Blvd., Ste. 203, San Pedro, CA 90731.
Date Revoked: December 16, 2008.
Reason: Surrendered License Voluntarily.

License Number: 009650NF.
Name: Roadway Express, Inc.
Address: 1077 Gorge Blvd., P.O. Box 471, Akron, OH 44309.
Date Revoked: December 10, 2008.
Reason: Surrendered License Voluntarily.

License Number: 018490F.

Name: Senator International Freight Forwarding, L.L.C.
Address: 105 Fieldcrest Ave., Edison, NJ 08837.
Date Revoked: November 1, 2008.
Reason: Surrendered License Voluntarily.

License Number: 017407NF.
Name: STS North America Inc.
Address: 1750 112th Ave., NW., Ste. C226, Bellevue, WA 98004.
Date Revoked: November 17, 2008.
Reason: Surrendered License Voluntarily.

License Number: 001878F.
Name: Trans-America Forwarders, Inc. DBA Trans-America Forwarders.
Address: 8345 NW 74th St., Miami, FL 31126–2325.
Date Revoked: December 1, 2008.
Reason: Surrendered License Voluntarily.

License Number: 019149N.
Name: Uniwide Cargomovers & Travel, Inc.
Address: 1232 W. 223rd St., Torrance, CA 90502.
Date Revoked: November 8, 2008.
Reason: Failed To Maintain A Valid Bond.

License Number: 019973F.
Name: West Coast Forwarding, Inc.
Address: 1028 N. Lake Ave., Ste. 202, Pasadena, CA 91104.
Date Revoked: December 22, 2008.
Reason: Surrendered License Voluntarily.

Sandra L. Kusumoto,
Director, Bureau of Certification and Licensing.
[FR Doc. E9–2368 Filed 2–3–09; 8:45 am]
BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

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

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

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications 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 March 2, 2009.

A. Federal Reserve Bank of Chicago (Burl Thornton, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. GMAC LLC, indirectly through its subsidiary, GMAC Mortgage Group LLC, both of Detroit, Michigan, to retain 21.5 percent of the voting shares of Capmark Financial Group, Inc., Horsham, Pennsylvania, and indirectly retain voting shares of Capmark Bank, Midvale, Utah.

In connection with this proposal, Applicants also have applied to acquire Escrow Bank USA, Midvale, Utah, and thereby engage in opearting an industrial bank, pursuant to section 225.28(b)(4) of Regulation Y.

B. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. University Financial Corp, Inc. (D/B/A Sunrise Community Banks), St. Paul, Minnesota, to acquire control of EastBank, Minneapolis, Minnesota.

C. Federal Reserve Bank of Kansas City (Todd Offenbacker, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. Hulett Bancorp, Hulett, Wyoming, to become a bank holding company by acquiring 100 percent of the voting shares of Summit National Bank, Hulett, Wyoming.

Board of Governors of the Federal Reserve System, January 30, 2009.
Robert deV. Frierson,
Deputy Secretary of the Board.
[FR Doc. E9–2372 Filed 2–3–09; 8:45 am]
BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.
TIME AND DATE: 11:30 a.m., Monday, February 9, 2009.
PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.
STATUS: Closed.
MATTERS TO BE CONSIDERED:
1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.
FOR FURTHER INFORMATION CONTACT: Michelle Smith, Director, or Dave Skidmore, Assistant to the Board, Office of Board Members at 202–452–2955.
SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Board of Governors of the Federal Reserve System, January 30, 2009.
Robert deV. Frierson,
Deputy Secretary of the Board.
[FR Doc. E9–2410 Filed 2–2–09; 11:15 am]
BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

Privacy Act of 1974; Notice of Updated Systems of Records

AGENCY: General Services Administration
ACTION: Notice; publication of one revised GSA system of records notices that includes a new routine use.

SUMMARY: This system of records was established for the purpose of serving as a basis for taking civil, criminal, and administrative actions, including the issuance of subpoenas, security clearances, suitability determinations, suspension and debarment recommendations and similar authorized activities.
DATES: Effective March 6, 2009.

FOR FURTHER INFORMATION CONTACT: Call or e-mail the GSA Privacy Act Officer: telephone 202–208–1317; e-mail *gsa.privacyact@gsa.gov*.

ADDRESSES: GSA Privacy Act Officer (CIB), General Services Administration, 1800 F Street NW, Washington, DC 20405.

SUPPLEMENTARY INFORMATION: The current routine use allows disclosure for educational or informational purposes provided the record does not identify a specific individual. The proposed revision would allow public disclosure of information that identifies individuals.

The proposed revised routine use is compatible with the purpose of taking criminal, civil, and administrative actions because the provision to the media or members of the public of information on events in an investigation or an administrative or judicial proceeding helps to preserve confidence in the integrity of the investigative process and to demonstrate the accountability of agency and Office of Inspector General officers and employees, and of those individuals doing business with the United States. It also will enhance the deterrence of similar crimes against the United States.

The proposed revised routine use will only affect the privacy of individuals insofar as they are involved in an investigation or administrative or judicial proceeding. With respect to such individuals, specific information will not be released if such release would constitute an unwarranted invasion of personal privacy.

The proposed revised routine use does not involve any new information collection requests.

Dated: January 27, 2009.

James L. Atwater,

Acting Director, Office of Information Management Office of the Chief Human Capital Officer.

GSA/ADM–24

SYSTEM NAME: Investigation Case Files.

SECURITY CLASSIFICATION: Some of the material contained in the system has been classified in the interests of national security pursuant to Executive Order 11652.

SYSTEM LOCATION: This system is located in the GSA Office of Inspector General, 1800 F Street, NW, Washington, DC 20405. The database for the system, known as the IG–Investigative Documentation Electronic Administrative System (IG–IDEAS), is on a local area network in the GS Building and is operated by the System Development and Support Division of the Office of Inspector General (JPM). The backup tapes for the system are stored at the Mid-Atlantic Investigations Office, 300 D Street, SW, Washington, DC 20024. Some interim reports are filed in the Suspension and Debarment Division, Office of the Chief Acquisition Officer.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: Individuals covered by the system are employees, former employees, and applicants for employment with GSA, as well as commissions, committees and small agencies serviced by GSA. The system also includes historical researchers, employees of contractors performing custodial or guard services in buildings under GSA control, any person who was the source of a complaint or an allegation that a crime had taken place, a witness who has information or evidence on any side of an investigation, and any possible or actual suspect in a criminal, administrative (including suspension and/or debarment actions), or civil action.

CATEGORIES OF RECORDS IN THE SYSTEM: Investigative files containing personal information, including name, date, and place of birth, experience, and investigative material that is used as a basis for taking civil, criminal, and administrative actions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: 5 U.S.C. app. 3 sec. 2 *et seq.*

PURPOSE(S): The system serves as a basis for taking civil, criminal, and administrative actions, including the issuance of subpoenas, security clearances, suitability determinations, suspension and debarment recommendations, and similar authorized activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are used by GSA officials and representatives of other government agencies on a need-to-know basis in the performance of their official duties under the authorities set forth above and for the following routine uses:

a. A record of any case in which there is an indication of a violation of law, whether civil, criminal, or regulatory in nature, may be disseminated to the appropriate Federal, State, local, or foreign agency charged with the responsibility for investigating or prosecuting such a violation or charged with enforcing or implementing the law.

b. A record may be disclosed to a Federal, State, local, or foreign agency or to an individual or organization in the course of investigating a potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such a violation, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, and disclosing the information is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant.

c. A record relating to a case or matter may be disclosed in an appropriate Federal, State, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice, even when the agency is not a party to the litigation.

d. A record relating to a case or matter may be disclosed to an actual or potential party or to his or her attorney for the purpose of negotiation or discussion on matters such as settlement of the case or matter, plea-bargaining, or informal discovery proceedings.

e. A record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement or that involves a case or matter within the jurisdiction of any agency may be disclosed to the agency to notify it of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter.

f. A record relating to a case or matter may be disclosed to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States, or to an Executive agreement.

g. A record may be disclosed to a Federal, State, local, foreign, or international law enforcement agency to assist in crime prevention and detection or to provide leads for investigation.

h. A record may be disclosed to a Federal, State, local, foreign, or tribal or other public authority in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuing of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter.

i. A record may be disclosed to the news media and public in order to provide information on events in an investigation or administrative or

judicial proceeding when the Inspector General determines there exists a legitimate public interest, unless the Inspector General determines that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

j. A record may be disclosed to an appeal or grievance examiner, formal complaints examiner, equal opportunity investigator, arbitrator, or other authorized official engaged in investigation or settlement of matters and investigations involving the Merit Systems Protection Board or the Office of Special Counsel.

k. A record may be disclosed as a routine use to a Member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the person who is the subject of the record.

l. Information may be disclosed at any stage of the legislative coordination and clearance process to the Office of Management and Budget (OMB) for reviewing of private relief legislation as set forth in OMB Circular No. A–19.

m. A record may be disclosed: (a) To an expert, a consultant, or contractor of GSA engaged in a duty related to an agency function to the extent necessary to perform the function; and (b) to a physician to conduct a fitness-for-duty examination of a GSA officer or employee.

n. A record may be disclosed to an official charged with the responsibility to conduct qualitative assessment reviews of internal safeguards and management procedures employed in investigative operations. This disclosure category includes members of the President's Council on Integrity and Efficiency and officials and administrative staff within their investigative chain of command, as well as authorized officials of the Department of Justice and the Federal Bureau of Investigation.

o. A record relating to a case may be disclosed to the GSA Office of Acquisition Policy for a decision or determination regarding suspension and debarment measures taken by the Government to disqualify contractors from participation in Government contracting or subcontracting.

p. To appropriate agencies, entities, and persons when (1) the Agency suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the Agency has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by GSA or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessaryto assist in connection with GSA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

q. In any legal proceeding, where pertinent, to which GSA is a party before a court or administrative body.

r. To the Office of Personnel Management (OPM), the Office of Management and Budget (OMB), and the Government Accountability Office (GAO) in accordance with their responsibilities for evaluating Federal programs.

s. To the National Archives and Records Administration (NARA) for records management purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE: Paper records are kept in files and file folders. Electronic records are stored in an electronic database or on hard or floppy disks and tapes.

RETRIEVABILITY: Paper records are retrievable manually by name from files indexed alphabetically and filed numerically by location and incident. Electronic records are retrievable by case number or by full or partial name.

SAFEGUARDS: Paper records are stored in locked rooms with access limited to authorized personnel. Computer-based records are available only to authorized users with a need to know and are protected by a network logon password, user password, and restricted right of access to the software, system, file, data element, and report.

RETENTION AND DISPOSAL: Records are disposed of by shredding or burning, as scheduled in the HB, GSA Maintenance and Disposition System (CIO P 1820.1), and the records schedules authorized by that system.

SYSTEM MANAGER AND ADDRESS: The system manager is the System Development and Support Division of the Office of Inspector General (JPM). The mailing address is: General Services Administration (JPM), 1800 F Street, NW, Washington, DC 20405.

NOTIFICATION PROCEDURE: An individual who wishes to be notified whether the system contains a record concerning him or her should address a request to the Office of Counsel to the Inspector General (JC), General Services Administration, Room 5324, 1800 F Street, NW, Washington, DC 20405.

RECORD ACCESS PROCEDURES: An individual seeking access to a record should put his or her request in writing and address it to the Office of Counsel to the Inspector General (JC), including full name (maiden name if appropriate), address, and date and place of birth. General inquiries may be made by calling the Office of Counsel to the Inspector General at (202) 501–1932.

CONTESTING RECORD PROCEDURES: GSA rules for contesting the content of a record or appealing a denial of a request to amend a record are in 41 CFR part 105–64.

RECORD SOURCE CATEGORIES: The sources are individuals themselves, employees, informants, law enforcement agencies, other government agencies, employers, references, co-workers, neighbors, educational institutions, and intelligence sources.

EXEMPTION CLAIMED FOR THE SYSTEM: In accordance with 5 U.S.C. 552a(j), this system of records is exempt from all provisions of the Privacy Act of 1974 with the exception of subsections (b); (c)(1) and (2); (e)(4)(A) through (F); (e)(6), (7), (9), (10), and (11); and (i) of the Act, to the extent that information in the system pertains to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals; to the activities of prosecutors, courts, and correctional, probation, pardon, or parole authorities; and to (a) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (b) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, that is associated with an identifiable individual; or (c) reports of enforcement of the criminal laws, from arrest or indictment through release from supervision. This system is exempted to maintain the efficacy and integrity of the Office of Inspector General's law enforcement function. In accordance with 5 U.S.C. 552a(k), this system of records is exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of the Privacy Act of 1974.

THE SYSTEM IS EXEMPT:

a. To the extent that the system consists of investigatory material compiled for law enforcement purposes. However, if an individual is denied any

right, privilege, or benefit to which the individual would otherwise be eligible as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of the Act, under an implied promise that the identity of the source would be held in confidence; and

b. To the extent the system consists of investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of the Act, under an implied promise that the identity of the source would be held in confidence. This system has been exempted to maintain the efficacy and integrity of lawful investigations conducted pursuant to the Office of Inspector General's law enforcement responsibilities and responsibilities in the areas of Federal employment, government contracts, and access to security classified information.

[FR Doc. E9–2326 Filed 2–3–09; 8:45 am]

BILLING CODE 6820–34–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Advisory Committee on Minority Health

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science, Office of Minority Health.

ACTION: Notice of meeting.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (DHHS) is hereby giving notice that the Advisory Committee on Minority Health (ACMH) will hold a meeting. This meeting is open to the public. Preregistration is required for both public attendance and comment. Any individual who wishes to attend the meeting and/or participate in the public comment session should e-mail *acmh@osophs.dhhs.gov.*

DATES: The meeting will be held on February 24, 2009 from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at The Westin National Harbor, 171 Waterfront Street, Oxon Hill, MD 20745.

FOR FURTHER INFORMATION CONTACT: Ms. Monica A. Baltimore, Tower Building, 1101 Wootton Parkway, Suite 600, Rockville, Maryland 20852.

Phone: 240–453–2882 Fax: 240–453–2883.

SUPPLEMENTARY INFORMATION: In accordance with Public Law 105–392, the ACMH was established to provide advice to the Deputy Assistant Secretary for Minority Health in improving the health of each racial and ethnic minority group and on the development of goals and specific program activities of the Office of Minority Health.

Topics to be discussed during this meeting will include strategies to improve the health of racial and ethnic minority populations through the development of health policies and programs that will help eliminate health disparities, as well as other related issues.

Public attendance at the meeting is 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 designated contact person at least fourteen business days prior to the meeting. Members of the public will have an opportunity to provide comments at the meeting. Public comments will be limited to three minutes per speaker. Individuals who would like to submit written statements should mail or fax their comments to the Office of Minority Health at least seven business days prior to the meeting. Any members of the public who wish to have printed material distributed to ACMH members should submit their materials to Garth Graham, M.D., M.P.H., Executive Secretary, ACMH, Tower Building, 1101 Wootton Parkway, Suite 600, Rockville, Maryland 20852, prior to close of business February 13, 2009.

Dated: January 14, 2009.

Mirtha R. Beadle,

Deputy Director, Office of Minority Health, Office of Public Health and Science, Office of the Secretary, U.S. Department of Health and Human Services.

[FR Doc. E9–2271 Filed 2–3–09; 8:45 am]

BILLING CODE 4150–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Autism Therapy Evaluation Effects of Hyperbaric Oxygen Therapy on Children With Autism, Request For Application (RFA), DD8EM–801

Correction: This notice was published in the **Federal Register** on January 27, 2009, Volume 74, Number 16, page 4752. The aforementioned meeting has been rescheduled to the following:

Time and Date: 3:30 p.m.–5 p.m., February 12, 2009 (Closed).

Contact Person for More Information: Brenda Colley Gilbert, Ph.D., Scientific Review Administrator, 2877 Brandywine Road, Atlanta, Georgia 30341, *telephone:* (770) 488–8390.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: January 27, 2009.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E9–2302 Filed 2–3–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Task Force on Community Preventive Services

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Task Force on Community Preventive Services.

Times and Dates: 8 a.m. to 6 p.m. EST, February 11, 2009; 8 a.m. to 1 p.m. EST, February 12, 2009.

Place: Centers for Disease Control and Prevention, 2500 Century Parkway, Atlanta, Georgia 30345.

Status: Open to the public, limited only by the space available.

Purpose: The mission of the Task Force is to develop and publish the *Guide to Community Preventive Services (Community Guide),* which consists of systematic reviews

of the best available scientific evidence and associated recommendations regarding what works in the delivery of essential public health services.

Topics include:

—*Update:* Home Visits to Increase Vaccination Coverage in Children, Adolescents, and Adults
—*Update:* Vaccination Programs in WIC Settings to Increase Vaccination Coverage in Children, Adolescents, and Adults
—Group-based Interventions to Prevent Adolescent Pregnancy, HIV, other Sexually Transmitted Infections
—Asthma Home Visits Economic Evaluation Review
—-Effects of Policies Restricting Hours of Alcohol Sales on Excessive Alcohol Consumption and Related Harms
—Population Levels of Alcohol Consumption Are a Good Indicator of Excessive Alcohol Consumption and Related Harms
—*Update:* Health Marketing Review
—Update on the Community Guide Website
—Introduction of the new Youth Development Review

Agenda items are subject to change as priorities dictate.

Persons interested in reserving a space for this meeting should call Charmen Crawford at 404.498.2498.

Contact person for additional information: Charmen Crawford, Coordinating Center for Health Information and Services, National Center for Health Marketing, Office of the Director, 1600 Clifton Road, M/S E–69, Atlanta, GA 30329, *phone:* 404.498.2498.

Dated: January 27, 2009.

James D. Seligman,

Chief Information Officer, Centers for Disease Control and Prevention.

[FR Doc. E9–2300 Filed 2–3–09; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Voluntary Surveys of Program Partners to Implement Executive Order 12862.

OMB No.: 0980–0266.

Description: Under the provisions of the Federal Paperwork Reduction Act of 1995 (Pub. L. 104–13), the Administration for Children and Families (ACF) is requesting clearance for instruments to implement Executive Order 12862 within ACF. The purpose of the data collection is to obtain customer satisfaction information from those entities who are funded to be our partners in the delivery of services to the American public. ACF partners are those entities that receive funding to deliver services or assistance from ACF programs. Examples of partners are state and local governments, territories, service providers, Indian Tribes and Tribal organizations, grantees, researchers, or other intermediaries serving target populations identified by and funded directly or indirectly by ACF. The surveys will obtain information about how well ACF is meeting the needs of our partners in operating the ACF programs.

Respondents: State, Local, & Tribal Govt. or not-for-profit Organizations.

Annual Burden Estimates.

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
State Governments, Territories and District of Columbia	51	5	0.33	84.15
Head Start Grantees and Delegates	200	1	.33	66
Other Discretionary Grant Programs	200	0.50	0.33	33
Indian Tribes and Tribal Organizations	25	2	0.33	16.50
	1	1	1	1

Estimated Total Annual Burden Hours: 200.65

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 30, 2009

Janean Chambers,

Reports Clearance Officer.

[FR Doc. E9–2298 Filed 2–3–09; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Microscopic Imaging Study Section, February 5, 2009, 8 a.m. to February 5, 2009, 7 p.m., Holiday Inn San Francisco Fisherman's Wharf, 1300 Columbus Avenue, San Francisco, CA 94133 which was published in the **Federal Register** on January 16, 2009, 74 FR 3062–3064.

This AED meeting will be held at the National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20882.

The meeting date and time remain the same. The meeting is closed to the public.

Dated: January 27, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–2276 Filed 2–3–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

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 meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material,

and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; Pathways to Independence/ Career Development.

Date: February 25, 2009.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, Building 4401, East Campus, 79 T.W. Alexander Drive, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Janice B. Allen, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Science, P.O. Box 12233, MD EC–30/Room 3170 B, Research Triangle Park, NC 27709, (919) 541–7556.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: January 27, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–2273 Filed 2–3–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; 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) and552b(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 Commitee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, Review of R03s and R21s Application.

Date: February 23, 2009.

Time: 12:30 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: NIDCR/NIH, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Marilyn Moore-Hoon, PhD, Scientific Review Officer, Scientific Review Branch, National Institute of Dental and Craniofacial Research, 6701 Democracy Blvd., Rm. 676, Bethesda, MD 20892–4878, 301–594–4861, *mooremar@nidcr.nih.gov.*

Name of Commitee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, Review of Contract RFP NHLBI–DE–09–10 Salivary Gland Tumor Biorepository.

Date: March 12, 2009.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Jonathan Horsford, PhD, Scientific Review Officer, Natl Inst of Dental and Craniofacial Research, National Insitutes of Health, 6701 Democracy Blvd, Room 664, Bethesda, MD 20892, 301–594–4859, *horsforj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: January 27, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–2277 Filed 2–3–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2009–0007]

DHS Data Privacy and Integrity Advisory Committee

AGENCY: Privacy Office, DHS.

ACTION: Notice of Federal Advisory Committee Meeting.

SUMMARY: The DHS Data Privacy and Integrity Advisory Committee will meet on February 26, 2009, in Arlington, Virginia. The meeting will be open to the public.

DATES: The DHS Data Privacy and Integrity Advisory Committee will meet on Thursday, February 26, 2009, from 9 a.m. to 12 p.m. and from 1:30 p.m. to 4 p.m. Please note that the meeting may end early if the Committee has completed its business.

ADDRESSES: The meeting will be held in Galleries I and II of the Hilton Arlington Hotel, 950 North Stafford Street, Arlington, Virginia 22203 (Ballston Metro Station). Written materials, requests to make oral presentations, and requests to have a copy of your materials distributed to each member of the Committee prior to the meeting should be sent to Martha K. Landesberg, Executive Director, DHS Data Privacy and Integrity Advisory Committee, by February 23, 2009. Persons who wish to submit comments and who are not able to attend or speak at the meeting may submit comments at any time. All submissions must include the Docket Number (DHS–2009–0007) and may be submitted by any one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *E-mail*: *PrivacyCommittee@dhs.gov*. Include the docket number in the subject line of the message.
- *Fax*: (703) 483–2999
- *Mail*: Martha K. Landesberg, Executive Director, Data Privacy and Integrity Advisory Committee, Department of Homeland Security, Washington, DC 20528.

Instructions: All submissions must include the words ''Department of Homeland Security Data Privacy and Integrity Advisory Committee'' and the Docket Number: DHS–2009–0007. Comments will be posted without alteration at *http://www.regulations.gov*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the DHS Data Privacy and Integrity Advisory Committee, go to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Martha K. Landesberg, Executive Director, DHS Data Privacy and Integrity Advisory Committee, Department of Homeland Security, Washington, DC 20528, by telephone (703) 235–0780, by fax (703) 235–0442, or by e-mail to *PrivacyCommittee@dhs.gov*.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463). During the meeting, the Acting Chief Privacy Officer will provide the DHS Data Privacy and Integrity Advisory Committee an update on the activities of the DHS Privacy Office. The Committee will hear presentations on the DHS-TRIP program, on current developments in DHS's implementation of the Freedom of Information Act (FOIA), and on the

DHS Privacy Office's recent international outreach activities. In addition, the subcommittees will update the Committee on their current work. Please note that the meeting may end early if all business is completed. An agenda will be posted in advance of the meeting on the Committee's web site at *http://www.dhs.gov/privacy*.

At the discretion of the Chair, members of the public may make brief (*i.e.*, no more than three minutes) oral presentations from 3:30 p.m. to 4 p.m. If you would like to make an oral presentation at the meeting, please register in advance or sign up on the day of the meeting. If you wish to provide written materials to be distributed to each member of the Committee in advance of the meeting, please submit them, preferably in electronic form to facilitate distribution, to Martha K. Landesberg, Executive Director, DHS Data Privacy and Integrity Advisory Committee, by February 23, 2009.

Information on Services for Individuals With Disabilities

For information on services for individuals with disabilities or to request special assistance, contact Martha K. Landesberg, Executive Director, DHS Data Privacy and Integrity Advisory Committee, as soon as possible.

Dated: January 29, 2009.

John W. Kropf,

Acting Chief Privacy Officer, Department of Homeland Security.

[FR Doc. E9–2318 Filed 2–3–09; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2008–1240]

Information Collection Request to Office of Management and Budget; OMB Control Numbers: 1625–0101, 1625–0102, and 1625–0103

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit Information Collection Requests (ICRs) and Analyses to the Office of Management and Budget (OMB) requesting an extension of its approval for the following collections of information: (1) 1625–0101, Periodic Gauging and Engineering Analyses for Certain Tank Vessels Over 30 Years Old; (2) 1625–0102, National Response Resource Inventory; and (3) 1625–0103, Mandatory Ship Reporting System for the Northeast and Southeast Coasts of the United States. Before submitting these ICRs to OMB, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before April 6, 2009.

ADDRESSES: To avoid duplicate submissions to the docket [USCG–2008–1240], please use only one of the following means:

(1) *Online: http://www.regulations.gov.*

(2) *Mail:* Docket Management Facility (DMF) (M–30), U.S. Department of Transportation (DOT), West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(3) *Hand deliver:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

Copies of the ICRs are available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from Commandant (CG–611), U.S. Coast Guard Headquarters, (Attn: Mr. Arthur Requina), 2100 2nd Street SW., Washington, DC 20593–0001. The telephone number is 202–475–3523.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Requina, Office of Information Management, telephone 202–475–3523, or fax 202–475–3929, for questions on these documents. Contact Ms. Renee V. Wright, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

The Coast Guard invites comments on whether these ICRs should be granted based on the collections being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of information subject to the collections; and (4) ways to minimize the burden of the collections on respondents, including the use of automated collection techniques or other forms of information technology.

We encourage you to respond to this request by submitting comments and related materials. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. *Please see* the ''Privacy Act'' paragraph below.

Submitting comments: If you submit a comment, please include the docket number [USCG–2008–1240], indicate the specific section of the document to which each comment applies, providing a reason for each comment. We recommend you include your name, mailing address, an e-mail address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8–1/2 by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We will consider all comments and material received during the comment period and will address them accordingly.

Viewing comments and documents: Go to *http://www.regulations.gov* to view documents mentioned in this Notice as being available in the docket. Enter the docket number for this Notice [USCG–2008–1240] in the Search box, and click ''Go >>.'' You may also visit the DMF in room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Privacy Act statement regarding our

public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

Information Collection Request

1. *Title:* Periodic Gauging and Engineering Analyses for Certain Tank Vessels Over 30 Years Old.

OMB Control Number: 1625–0101.

Summary: The Oil Pollution Act of 1990 required the issuance of regulations related to the structural integrity of tank vessels, including periodic gauging of the plating thickness of tank vessels over 30 years old. This collection of information is used to verify the structural integrity of older tank vessels.

Need: Title 46 U.S.C. section 3703 authorizes the Coast Guard to prescribe regulations related to tank vessels, including design, construction, alteration, repair, and maintenance. Title 46 CFR section 31.10–21a prescribes the regulations related to periodic gauging and engineering analyses for certain tank vessels over 30 years old.

Forms: None.

Respondents: Owners and operators of certain tank vessels.

Frequency: Every 5 years.

Burden Estimate: The estimated burden has decreased from 13,688 hours to 9,918 hours a year.

2. *Title:* National Response Resource Inventory.

OMB Control Number: 1625–0102.

Summary: The information is needed to improve the effectiveness of deploying response equipment in the event of an oil spill. It may also be used in the development of contingency plans.

Need: Section 4202 of the Oil Pollution Act of 1990 (Pub. L. 101–380) requires the Coast Guard to compile and maintain a comprehensive list of spill removal equipment. This collection helps fulfill that requirement.

Forms: None.

Respondents: Oil spill removal organizations.

Frequency: On occasion.

Burden Estimate: The estimated burden has increased from 1,236 hours to 1,296 hours a year.

3. *Title:* Mandatory Ship Reporting System for the Northeast and Southeast Coasts of the United States.

OMB Control Number: 1625–0103.

Summary: The information is needed to reduce the number of ship collisions with endangered northern right whales. Coast Guard rules at 33 CFR part 169 establish two mandatory ship-reporting systems off the northeast and southeast coasts of the United States.

Need: The collection involves ships' reporting by radio to a shore-based authority when entering the area covered by the reporting system. The ship will receive, in return, information to reduce the likelihood of collisions between themselves and northern right whales—an endangered species—in the areas established with critical-habitat designation.

Forms: None.

Respondents: Operators of certain vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden has decreased from 226 hours to 211 hours a year.

Dated: January 21, 2009.

D.T. Glenn,

Rear Admiral, U.S. Coast Guard Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. E9–2313 Filed 2–3–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2008–1009]

Collection of Information Under Review by Office of Management and Budget: OMB Control Number: 1625–0035

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this request for comments announces that the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB) requesting an extension of its approval for the following collection of information: 1625–0035, Title 46 CFR Subchapter Q: Lifesaving, Electrical, and Engineering Equipment, Construction and Materials & Marine Sanitation Devices (33 CFR 159). Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Please submit comments on or before March 6, 2009.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2008–1009] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT) or to OIRA. To avoid duplication, please submit your comments by only one of the following means:

(1) Electronic submission. (a) To Coast Guard docket at *http://www.regulation.gov*. (b) To OIRA by e-mail via: *oira_submission@omb.eop.gov*.

(2) Mail or Hand delivery. (a) DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Hand deliver between the hours of 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329. (b) To OIRA, 725 17th Street NW., Washington, DC 20503, to the attention of the Desk Officer for the Coast Guard.

(3) Fax. (a) To DMF, 202–493–2251. (b) To OIRA at 202–395–6566. To ensure your comments are received in time, mark the fax to the attention of the Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov*.

A copy of the ICR is available through the docket on the Internet at *http://www.regulations.gov*. Additionally, copies are available from Commandant (CG–611), U.S. Coast Guard Headquarters, (Attn: Mr. Arthur Requina), 2100 2nd Street SW., Washington, DC 20593–0001. The telephone number is 202–475–3523.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Requina, Office of Information Management, telephone 202–475–3523 or fax 202–475–3929, for questions on these documents. Contact Ms. Renee V. Wright, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION: The Coast Guard invites comments on whether this ICR should be granted based on it being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of information subject to the collections; and (4) ways to minimize the burden of

collections on respondents, including the use of automated collection techniques or other forms of information technology.

Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. Comments to Coast Guard must contain the docket number of this request, [USCG 2008–1009]. For your comments to OIRA to be considered, it is best if they are received on or before the March 6, 2009.

Public participation and request for comments: We encourage you to respond to this request by submitting comments and related materials. We will post all comments received, without change, to *http://www.regulations.gov*. They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the paragraph on DOT's ''Privacy Act Policy'' below.

Submitting comments: If you submit a comment, please include the docket number [USCG–2008–1009], indicate the specific section of the document to which each comment applies, providing a reason for each comment. We recommend you include your name, mailing address, an e-mail address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission. You may submit comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. In response to your comments, we may revise the ICR or decide not to seek an extension of approval for this collection. The Coast Guard and OIRA will consider all comments and material received during the comment period.

Viewing comments and documents: Go to *http://www.regulations.gov* to view documents mentioned in this Notice as being available in the docket. Enter the docket number [USCG–2008–1009] in the Search box, and click, ''Go>>.'' You may also visit the DMF in room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act statement regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard has published the 60-day notice (73 FR 60708, October 14, 2008) required by 44 U.S.C. 3506(c)(2). That notice elicited no comments.

Information Collection Request

Title: Title 46 CFR Subchapter Q: Lifesaving, Electrical, and Engineering Equipment, Construction and Materials & Marine Sanitation Devices (MSD) (33 CFR part 159).

OMB Control Number: 1625–0035.

Type of Request: Extension of a currently approved collection.

Affected Public: Manufacturers of safety equipment, materials and marine sanitation devices.

Abstract: Title 46 U.S.C. 2103, 3306, 3703, and 4302 authorize the Coast Guard to establish safety equipment and material regulations. Title 46 CFR parts 159 to 164 prescribe these requirements. Title 33 U.S.C. 1322 authorizes the Coast Guard to establish MSD regulations. Title 33 CFR part 159 prescribes these rules. This information will be used to determine whether manufacturers are in compliance with Coast Guard regulations. When the Coast Guard approves any safety equipment, material or MSD for use on a commercial vessel or pleasure craft, the manufacturer is issued a Certificate of Approval.

Forms: CGHQ–10030.

Burden Estimate: The estimated burden has increased from 20,529 hours to 103,289 hours a year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: January 21, 2009.

D.T. Glenn,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. E9–2315 Filed 2–3–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3299–EM

Docket ID FEMA–2008–0018]

New York; Amendment No. 2 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of New York (FEMA–3299–EM), dated December 18, 2008, and related determinations.

DATES: *Effective Date:* December 31, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this emergency is closed effective December 31, 2008.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–2270 Filed 2–3–09; 8:45 am]

BILLING CODE 9110–23–P

DEPARTMENT OF HOMELAND SECURITY

United States Immigration and Customs Enforcement

Agency Information Collection Activities: Extension of an Existing Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review; Exemption from NSEERS Registration Requirements (File No. OMB–40); OMB Control No. 1653–0035.

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (USICE), has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on December 4, 2008 Vol. 73 No. 234 73950, allowing for a 60 day public comment period. No comments were received on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted for thirty days March 6, 2009. Written comments and suggestions from the public and affected agencies regarding items contained in this notice and especially with regard to the estimated public burden and associated response time should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to OMB Desk Officer, for United States Immigration and Customs Enforcement, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Exemption from NSEERS Registration Requirements.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* No agency Form Number (File No. OMB–40), U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This Information Collection allows an alien to seek an exemption from the NSEERS registration requirements by submitting a letter to the Department of Homeland Security containing specific information.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 5,800 responses at 30 minutes (.5 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 2,900 annual burden hours.

Requests for a copy of the proposed information collection instrument, with instructions; or inquiries for additional information should be directed to: Joseph M. Gerhart, Chief, Records Management Branch, U.S. Immigration and Customs Enforcement, 500 12th Street, SW., Room 3138, Washington, DC 20536; (202) 732–6337.

Dated: January 30, 2009.

Joseph M. Gerhart,

Chief, Records Management Branch, U.S. Immigration and Customs Enforcement, Department of Homeland Security.

[FR Doc. E9–2411 Filed 2–3–09; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5287–N–01]

Notice of Proposed Information Collection for Public Comment: Notice of Funding Availability for the Hispanic Serving Institutions Assisting Communities (HSIAC) Program

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comment Due Date:* April 6, 2009.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW., Room 8234, Washington, DC 20410–6000.

FOR FURTHER INFORMATION CONTACT: Susan Brunson, 202–708–3061, ext. 3852 (this is not a toll-free number), for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department of Housing and Urban Development will submit the proposed extension of information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, (*e.g.*, permitting electronic submission of responses).

This Notice also lists the following information:

Title of Proposal: Notice of Funding Availability for the Hispanic Serving Institutions Assisting Communities Program.

OMB Control Number: 2528–0198 (exp. 05/31/09).

Description of the Need for the Information and Proposed Use: The information is being collected to select applicants for award in this statutorily created competitive grant program and too monitor performance of grantees to ensure they meet statutory and program goals and requirements.

Agency Form Numbers: SF–424, SF–424 Supplement, HUD–424–CB, SFLLL, HUD–27300, HUD–2880, HUD–2991, HUD–2990, HUD–2993, HUD–2994, HUD–2994A, HUD–96010, and HUD–96011.

Members of the Affected Public: Nonprofit Hispanic-Serving Institutions that meet the definition of an HSI established in Title V of the 1998 Amendments to the Higher Education Act of 1965 (Pub. L. 105–244; enacted October 7, 1998).

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: Information pursuant to grant award will be submitted once a year. The following chart details the respondent burden on an annual and semi-annual basis:

	Number of respondents	Total annual responses	Hours per response	Total hours
Applicants	40	40	40	1,600
Semi-Annual Reports	15	30	6	180
Final Reports	15	15	8	120
Recordkeeping	15	15	5	75
Total			59	1,975

Status of the proposed information collection: Pending OMB approval.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Date: January 26, 2009.

Jean Lin Pao,

General Deputy, Assistant Secretary for Policy Development and Research.

[FR Doc. E9–2282 Filed 2–3–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5280–N–05]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

DATES: *Effective Date:* February 4, 2009.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7262, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: January 29, 2009.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. E9–2291 Filed 2–3–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5281–N–10]

Multifamily Housing Procedures for Projects Affected by Presidentially-Declared Disasters

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

This information is submitted to HUD for review to ensure that owners follow HUD procedures regarding recovery efforts after a Presidentially-declared disaster.

DATES: *Comments Due Date:* March 6, 2009.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–NEW) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Lillian Deitzer at *Lillian_L._Deitzer@HUD.gov* or telephone (202) 402–8048. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including

through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Multifamily Housing Procedures for Projects Affected by Presidentially-Declared Disasters.

OMB Approval Number: 2502–NEW.

Form Numbers: None.

Description of the Need for the Information and its Proposed Use: This information is submitted to HUD for review to ensure that owners follow HUD procedures regarding recovery efforts after a Presidentially-declared disaster.

Frequency of Submission: When affected by a Presidentially-Declared disaster.

	Number of respondents	Annual resposnes	×	Hours per response	=	Burden hours
Reporting Burden	29,281	542		7.2		393

Total Estimated Burden Hours: 393.

Status: New Collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: January 27, 2009.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E9–2281 Filed 2–3–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5281–N–09]

Telecommunications Services in Multifamily Housing Projects

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

This information is used to ensure that owners/agents and telecommunications service providers comply with HUD requirements when providing telecommunications services to tenants in multifamily housing projects.

DATES: *Comments Due Date:* March 6, 2009.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–NEW) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Lillian Deitzer at *Lillian_L._Deitzer@HUD.gov* or telephone (202) 402–8048. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Telecommunications Services in Multifamily Housing Projects.

OMB Approval Number: 2502–NEW.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: This information is used to ensure that owners/agents and telecommunications service providers comply with HUD requirements when providing telecommunications services to tenants in multifamily housing projects.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	2,545,300	0.136		0.97		336,617

Total Estimated Burden Hours: 336,617.

Status: New Collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: January 27, 2009.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E9–2280 Filed 2–3–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–IA–2009–N0022; 96300–1671–0000–P5]

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species.

DATES: Written data, comments or requests must be received by March 6, 2009.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 212, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: University of Washington, National Primate Research Center, Seattle, WA, PRT–199108

The applicant requests a permit to import blood samples of Bornean orangutans (*Pongo pygmaeus*) from Canada for the purpose of scientific research on the incidence of disease in captive-held orangutans in an Indonesian orangutan rehabilitation center. This notification covers a one-time import.

Applicant: Gibbon Conservation Center, Santa Clarita, CA, PRT–204841

The applicant requests a permit to import two male captive-born siamangs (*Symphalangus syndactylus*), and one male captive-born Javan gibbon (*Hylobates moloch*) from the Port Lympne Wild Animal Park, United Kingdom, for the purpose of enhancement of the species through captive breeding.

Applicant: Gibbon Conservation Center, Santa Clarita, CA, PRT–204842

The applicant requests a permit to export one male and re-export one female captive-born siamang (*Symphalangus syndactylus*) to the Zooz Park, Ontario, Canada, for the purpose of enhancement of the species through captive breeding.

Applicant: David L. Clark, Seattle, WA, PRT–203410

The applicant requests a permit to import the sport-hunted trophy of one female brown hyena (*Parahyaena brunnea*) from Namibia for personal use.

Applicant: Roger A. Rose, West Olive, MI, PRT–203526

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Anthony J. White, Rison, AR, PRT–203517

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Leslie F. Howell Jr., Clearwater, FL, PRT–203831

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Dated: January 23, 2009.

Lisa J. Lierheimer,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E9–2309 Filed 2–3–09; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–2008–N0289; 1112–0000–80221–F2]

Tehachapi Uplands Multiple Species Habitat Conservation Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and receipt of application.

SUMMARY: This notice announces the availability of the draft Tehachapi Uplands Multiple Species Habitat Conservation Plan (MSHCP), draft Implementing Agreement (IA), and draft Environmental Impact Statement (EIS) for public review and comment. We, the Fish and Wildlife Service (Service), are considering the issuance of a 50-year incidental take permit (permit) for 27 species in response to receipt of an application prepared by Tejon Ranch Corporation (Tejon or Applicant) pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The permit is needed because take of species could occur within 141,886 acres of covered lands on the Tejon Ranch as the result of on-going ranch activities and approximately 5,533 acres of mountain resort and other development within and adjacent to the Interstate 5 corridor and Lebec community in Kern County, California. The MSHCP proposes a conservation strategy to minimize and mitigate to the maximum extent practicable any impacts that could occur to covered species as the result of the covered activities.

DATES: Written comments must be received on or before May 5, 2009.

ADDRESSES: Written comments may be submitted to Mary Grim, Section 10 Program Coordinator, U.S. Fish and Wildlife Service, 2800 Cottage Way, W–2605, Sacramento, CA 95825. Comments may also be sent by e-mail to *fw8tumshcp@fws.gov*.

FOR FURTHER INFORMATION CONTACT: Steve Kirkland, U.S. Fish and Wildlife Service, at 805–644–1766.

SUPPLEMENTARY INFORMATION:

Availability of Documents

Individuals wishing to receive copies of the application, draft HCP, draft EIS, and draft IA, should contact the Service by telephone (see **FOR FURTHER INFORMATION CONTACT**). Copies of the subject documents are also available for public inspection during regular business hours at the Ventura Fish and Wildlife Office [see **FOR FURTHER INFORMATION CONTACT**], and may be downloaded from the Ventura Fish and Wildlife Office Web site at: *http://www.fws.gov/ventura/*.

Background

Section 9 of the Act and Federal regulations prohibit the ''take'' of wildlife species listed as endangered or threatened (16 U.S.C. 1538). The Act defines the term ''take'' as: to harass,

harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed species, or to attempt to engage in such conduct (16 U.S.C. 1532). Harm includes significant habitat modification or degradation that actually kills or injures listed wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering [50 CFR 17.3(c)]. Pursuant to section 10(a)(1)(B) of the Act, the Service may issue permits to authorize ''incidental take'' of listed animal species. ''Incidental Take'' is defined by the Act as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing permits for threatened species and endangered species, respectively, are at 50 CFR 17.32 and 50 CFR 17.22.

Although take of listed plant species is not prohibited under the Act, and therefore cannot be authorized by an incidental take permit, plant species may be included on a permit in recognition of the conservation benefits provided to them by a habitat conservation plan. All species included on an incidental take permit would receive assurances under the Service's ''No Surprises'' regulation [50 CFR 17.22(b)(5) and 17.32(b)(5)].

We have received an application for an incidental take permit covering 27 listed and unlisted species that may be taken or otherwise affected by on-going ranch activities and future low density residential and commercial development activities on a portion of the Tejon Ranch. The potential impacts of take that could result from such covered activities would be avoided, minimized and mitigated as described in the Tehachapi Uplands Multiple Species Habitat Conservation Plan (plan) submitted as part of the incidental take permit application by Tejon. The Applicant has prepared the plan to satisfy the requirements for a section 10(a)(1)(B) permit under the Act.

The Applicant seeks a 50-year incidental take permit for covered activities within 141,886 acres of covered lands on Tejon Ranch lands in Kern County, California. Activities covered by the permit would include ongoing activities that have historically occurred at the Ranch, such as grazing and film production, as well as planned future community development of approximately 5,533 acres within and adjacent to the Interstate-5 corridor in the Tejon Mountain Village Planning Area and the Lebec/Existing Headquarters area, and take minimization, mitigation and conservation measures provided under the MSHCP. The permit would not cover hunting or mineral extraction.

Species proposed for coverage in the MSHCP are species that are currently listed as federally threatened or endangered or have the potential to become listed during the term of the permit and have some likelihood to occur within the plan area. Several of the species proposed for coverage are also listed under the California Endangered Species Act or identified as Fully Protected species or species of special concern under state law. Should any of the unlisted covered wildlife species become listed under the Act during the term of the permit, take authorization for those species would become effective upon listing. Twenty-one animal species and six plant species are known or have the potential to occur within the plan area and are proposed to be covered by the permit (Covered Species). The permit would include the following federally listed animal species: California condor (*Gymnogyps californianus*—federally listed as endangered and state listed as endangered and fully protected), least Bell's vireo (*Vireo bellii pusillus*—federally and state listed as endangered), southwestern willow flycatcher (*Empidonax traillii extimus*—federally and state listed as endangered), and Valley elderberry longhorn beetle (*Democerus californicus dimorphus*—federally listed as threatened). The permit would also include the following species currently unlisted under the Act: Western yellow-billed cuckoo (*Coccyzus americanus occidentalis*—federal candidate for listing and state listed as endangered); Tehachapi slender salamander (*Batrachoseps stebbinsi*—state listed as threatened), bald eagle (*Haliaeetus leucocephalus*—state listed as endangered), American peregrine falcon (*Falco peregrinus anatum*—state listed as endangered and fully protected), little willow flycatcher (*Empidonax traillii brewsteri*—state listed as endangered), golden eagle (*Aquila chrysaetos*—state species of special concern and fully protected), white-tailed kite (*Elanus leucurus*—state fully protected), ringtail (*Bassariscus astutus*—state fully protected), tricolored blackbird (*Agelaius tricolor*—state species of concern), Tehachapi pocket mouse (*Perognathus alticola inexpectatus*—state species of concern), burrowing owl (*Athene cunicularia*—state species of concern), yellow-blotched salamander (*Ensatina eschscholtzii croceater*—state species of concern), western spadefoot (*Spea hammondii*—state species of concern), purple martin (*Progne subis*—state species of concern), yellow warbler (*Dendroica petechia brewsteri*—state species of concern), coast horned lizard (*Phrynosoma coronatum* (both *frontale* and *blainvillii* populations)—state species of concern), two-striped garter snake (*Thamnophis hammondii*—state species of concern), round-leaved filaree (*Erodium macrophyllum*), Fort Tejon woolly sunflower (*Eriophyllum lanatum* var. *hallii*), Kusche's sandwort (*Arenaria macradenia* var. *kuschei*), Tehachapi buckwheat (*Eriogonum callistum*), striped adobe lily (*Fritillaria striata*—state listed as threatened), and Tejon poppy (*Eschscholzia lemmonii* ssp. *kernensis*).

The MSHCP includes a conservation strategy intended to avoid, minimize and mitigate to the maximum extent practicable any impacts that would occur to covered species as the result of the covered activities. Under the plan, and consistent with the Tejon Ranch Conservation and Land Use Agreement between Tejon and the Sierra Club, National Audubon Society, Natural Resources Defense Council, Endangered Habitats League, and Planning and Conservation League, no land development would be allowed within approximately 93,522 acres of Covered Lands, including the approximately 37,100-acre Tunis and Winters ridge area, which is designated as the Condor Study Area under the plan and is the area of the ranch most likely to be frequented by condors. An additional 23,001 acres would be preserved as open space within the Tejon Mountain Village planning area, resulting in the permanent conservation of approximately 82 percent of the Covered Lands (MSHCP Mitigation Lands). Upon initiation of construction of the Tejon Mountain Village development, the MSCHP requires that the MSHCP Mitigation Lands be permanently protected by phased recordation of conservation easements or equivalent legal restrictions over all such lands by the end of the permit term. The MSCHP also requires implementation of general and species-specific take avoidance, minimization and mitigation measures to reduce potential impacts to the covered species. With regard to the California condor, the plan requires the ongoing monitoring of covered activities by a qualified biologist to reduce the potential for any human/condor interactions and the permanent enforcement of covenants, conditions and restrictions on residential development to minimize any impacts to condors. The plan also provides funding for condor capture, care and relocation in the unlikely event that a condor becomes habituated to human activities and includes a

supplemental feeding program for condors. No lethal take of condors would be authorized under the permit.

National Environmental Policy Act Compliance

The Service's proposed issuance of an incidental take permit is a federal action and triggers the need for compliance with the National Environmental Policy Act (NEPA). The Service has prepared a draft EIS that evaluates the impacts of proposed issuance of the permit and implementation of the MSHCP, and also evaluates the impacts of a reasonable range of alternatives.

The draft EIS analyzes three alternatives in addition to the proposed MSHCP, summarized above. The Service has identified the proposed MSHCP as the Preferred Alternative. Additional alternatives are described below.

No Action/No MSHCP Alternative: The No Action/No MSHCP Alternative allows for development in areas where the Service believes that no take of federally listed species is likely to occur and thus no ITP is required. The No Action/No MSHCP Alternative generally includes ongoing Ranch uses as well as development of the Covered Lands that could occur consistent with the Kern County General Plan—Land Use Designations on the approximately 56,922 acres of the Covered Lands that are outside of the CSA and a two-mile buffer area around the CSA. This Alternative provides for development of up to 5,897 residential units and 6,512,200 square feet of commercial space.

Condor HCP Alternative: The Condor HCP Alternative would result in the issuance of an ITP covering only the California condor. No development would occur within the CSA for the 50-year term of the ITP, but permanent conservation easements would not be recorded within the CSA or elsewhere within the Covered Lands. This alternative would not include the comprehensive protective measures that would apply to all of the Covered Species in the Proposed MSHCP Alternative. The Condor HCP Alternative would include the same type and density of development within the Tejon Mountain Village Plan area and Lebec/Headquarters area as is included in the Proposed MSHCP Alternative, but would also include development consistent with the Kern County General Plan—Land Use Designations in all other portions of the Covered Lands except for the CSA. This Alternative provides for development of up to 7,100 residential units and 4,940,710 square feet of commercial space development.

MSHCP General Plan Buildout Alternative: The MSHCP General Plan Buildout Alternative would include issuance of an ITP for the five federally listed species identified above. Development in the locations, densities and intensities allowed under the current Kern County General Plan—Land Use Designations would be covered, except that no development would be allowed in the CSA during the term of the ITP. This Alternative provides for development of up to 8,752 residential units and 6,762,690 square feet of commercial space development.

Public Comments

If you wish to comment on the permit application, draft MSHCP, draft IA, or draft EIS, you may submit your comments to the address listed in the **ADDRESSES** section of this document. 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 may 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 Service will evaluate the application, associated documents, and comments submitted to them to prepare a final EIS. A permit decision will be made no sooner than 30 days after the publication of the final EIS and completion of the Record of Decision.

This notice is provided pursuant to section 10(a) of the Act and pursuant to implementing regulations for NEPA (40 CFR 1506.6).

Dated: January 29, 2009.

Ken McDermond,

Deputy Regional Director, California and Nevada Region, Sacramento, California.

[FR Doc. E9–2303 Filed 2–3–09; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–EA–2009–N0009]; [97600–9792–0000–5d]

Sport Fishing and Boating Partnership Council

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of teleconference.

SUMMARY: We, the Fish and Wildlife Service (Service), announce a public teleconference of the Sport Fishing and Boating Partnership Council (Council).

DATES: We will hold the teleconference on Monday, February 23, 2009, 2–3 p.m. (Eastern time). If you wish to listen to the teleconference proceedings or submit written material for the Council to consider during the teleconference, notify Douglas Hobbs by Friday, February 13, 2009. If you wish to submit a written statement for Council consideration during the teleconference, we must receive it no later than February 16, 2009. See instructions under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Douglas Hobbs, Council Coordinator, 4401 N. Fairfax Dr., Mailstop 3103–AEA, Arlington, VA 22203; (703) 358–2336 (phone); (703) 358–2548 (fax), or *doug_hobbs@fws.gov* (e-mail).

SUPPLEMENTARY INFORMATION:

Background

In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App., we give notice that the Council will hold a teleconference on Monday, February 23, 2009, from 2 to 3 p.m.

The Council was formed in January 1993 to advise the Secretary of the Interior, through the Director of the U.S. Fish and Wildlife Service, on nationally significant recreational fishing, boating, and aquatic resource conservation issues. The Council represents the interests of the public and private sectors of the sport fishing, boating, and conservation communities and is organized to enhance partnerships among industry, constituency groups, and government. The 18-member Council, appointed by the Secretary of the Interior, includes the Service Director and the president of the Association of Fish and Wildlife Agencies, who both serve in ex officio capacities. Other Council members are directors from State agencies responsible for managing recreational fish and wildlife resources and individuals who represent the interests of saltwater and freshwater recreational fishing, recreational boating, the recreational fishing and boating industries, recreational fisheries resource conservation, Native American tribes, aquatic resource outreach and education, and tourism. Background information on the Council is available at *http://www.fws.gov/sfbpc.*

The Council will convene to: (1) Approve recommendations to the Director of the Fish and Wildlife Service for funding Fiscal Year 2009 Boating

Infrastructure Grant proposals; and (2) to consider other Council business. We will post the final agenda on the Internet at *http://www.fws.gov/sfbpc.*

Procedures for Public Input

Format Requirements for Oral and Written Commenters

Whether you wish to comment orally or in written form, you must provide us with written copies of your comments. All written statements must be supplied to the Council Coordinator in *both* of the following formats:

- One hard copy with original signature, and
- One electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format).

Submitting Written Information for the Council To Consider

Speakers who wish to expand upon their oral statements or those who had wished to speak but could not be accommodated on the agenda are invited to submit written statements to the Council. Interested members of the public may submit relevant written information for the Council to consider during the public teleconference. We must receive all written statements by Monday, February 16, 2009, so that we can make the information available to the Council for their consideration prior to the teleconference.

Council Minutes

The Council Coordinator will maintain the teleconference's summary minutes, which will be available for public inspection at the location under **FOR FURTHER INFORMATION CONTACT** during regular business hours within 30 days after the teleconference. You may purchase personal copies for the cost of duplication.

Dated: January 21, 2009.

Rowan W. Gould,

Acting Director.

[FR Doc. E9–2312 Filed 2–3–09; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–R–2008–N0299; 40136–1265–0000–S3]

Tensas River National Wildlife Refuge, Franklin, Madison, and Tensas Parishes, LA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability: draft comprehensive conservation plan and environmental assessment; request for comments.

SUMMARY: We, the Fish and Wildlife Service (Service), announce the availability of a draft comprehensive conservation plan and environmental assessment (Draft CCP/EA) for Tensas River National Wildlife Refuge (NWR) for public review and comment. In this Draft CCP/EA, we describe the alternative we propose to use to manage this refuge for the 15 years following approval of the Final CCP.

DATES: To ensure consideration, we must receive your written comments by March 6, 2009. A meeting will be held to present the Draft CCP/EA to the public. Mailings, newspaper articles, and posters will be the avenues to inform the public of the date and time for the meeting.

ADDRESSES: Requests for copies of the Draft CCP/EA should be addressed to: Tina Chouinard, Refuge Planner, Fish and Wildlife Service, 6772 Highway 76 South, Stanton, TN 38069. The Draft CCP/EA may be accessed and downloaded from the Service's Internet site: *http://southeast.fws.gov/planning.*

FOR FURTHER INFORMATION CONTACT: Tina Chouinard; *Telephone:* 731/780–8208; *E-mail: tina_chouinard@fws.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we continue the CCP process for Tensas River NWR. We started the process through a notice in the **Federal Register** on September 08, 2006 (71 FR 53131).

Tensas River NWR consists of 74,622 acres in fee title and 195 acres in easement. It is located in the Tensas Basin in northeast Louisiana, approximately 60 miles southeast of Monroe, Louisiana, and 25 miles southwest of Vicksburg, Mississippi. The refuge area encompasses portions of Madison, Tensas, and Franklin Parishes. The office/visitor center and maintenance facilities on the refuge are located approximately 12 miles southwest of Tallulah, Louisiana.

In an effort to conserve the largest privately owned tract of bottomland hardwoods remaining in the Mississippi Delta, Congress authorized the Secretary of the Interior to establish the Tensas River NWR by Public Law 96–285 on June 28, 1980. Tensas River NWR was established for various purposes, including:

- ''For the preservation and development of the environmental resources * * * to conserve the diversity of fish and wildlife and their habitat * * * for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretative education,'' and ''to give special consideration to management of the timber on the refuge to ensure continued commercial production and harvest compatible with the purposes for which the refuge is established and the needs of fish and wildlife which depend upon the dynamic and diversified hardwood forest'' (94 Stat. 595, dated June 28, 1980);
- ''For the development, advancement, management, conservation, and protection of fish and wildlife resources'' [16 U.S.C. 742f(a)(4)] ''for the benefit of the United States Fish and Wildlife Service, in performing its activities and services. Such acceptance may be subject to the terms of any restrictive or affirmative covenant, or condition of servitude'' [16 U.S.C. 742f(b)(1) (Fish and Wildlife Act of 1956)];
- ''For conservation purposes'' [7 U.S.C. 2002 (Consolidated Farm and Rural Development Act)];
- ''To conserve (A) fish or wildlife which are listed as endangered species or threatened species* * *or (B) plants'' [16 U.S.C. 1534 (Endangered Species Act of 1973)].

Tensas River NWR currently provides a mix of various habitat types, including bottomland hardwood forests, hardwood reforestation areas, open field moist-soil areas, and open field-cropland. There are approximately 11,000 acres of forest less than 30 years old; 6,000 acres of 30- to 60-year old timber, and 53,000 acres of 60-plus year old timber. Eighty percent (56,000 acres) of the refuge is composed of sweetgum/willow oak/Nuttall oak forest type; 20 percent is sugarberry/American elm/green ash (12,600 acres); and a small percentage is overcup oak/bitter pecan and cypress brake timber types. The majority of the refuge is in a closed-canopy condition.

Because Tensas River NWR is part of the Lower Mississippi River Ecosystem, the refuge is a component of many regional and ecosystem conservation planning initiatives. The Mississippi Alluvial Valley (MAV) is a critical ecoregion for migratory birds in North America. Tensas River NWR provides important foraging and resting habitats within the MAV for waterfowl, as well as a variety of other migratory birds such as woodcock, marshbirds, neotropical migratory birds, colonial waterbirds, and wading birds. This area specifically contributes important regional resources to an international habitat management effort known as the North American Waterfowl Management Plan, which seeks to return waterfowl species populations to levels observed during the 1970s.

Background

The CCP Process

The National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd–668ee), which amended the National Wildlife Refuge System Administration Act of 1966, requires us to develop a CCP for each national wildlife refuge. The purpose in developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Improvement Act and NEPA.

Significant issues addressed in this Draft CCP/EA include: (1) Threatened Louisiana black bear, (2) general refuge and visitor center access, (3) clear integration of refuge management with regional watershed/ecosystem plans, (4) habitat restoration and management, (5) bottomland hardwood forest restoration and management, and (6) how to improve opportunities for environmental education/interpretation. The Service developed three alternatives for management of the refuge (Alternatives A, B, and C), with Alternative C as the Service's proposed alternative.

CCP Alternatives, Including Our Proposed Alternative

We developed three alternatives for managing the refuge and chose ''Alternative C'' as the proposed alternative. A full description of each alternative is in the Draft CCP/EA. We summarize each alternative below.

Alternative A—No Action Alternative

Current management and public use would continue under this alternative. Refuge management programs would continue to be developed and implemented with limited baseline biological information and with limited monitoring. Wildlife surveys would still be completed for presence and absence of species and to alert refuge staff to large-scale changes in population trends. Cooperation with partners for monitoring waterfowl, eagle, fish, and deer herd health surveys would continue. The refuge would continue to provide habitat for and monitor the progress on the repatriation of the Louisiana black bear. It would also maintain the current habitat mix for the benefit of other migratory birds, shorebirds, marshbirds, and landbirds. Staff would continue existing surveys to monitor long-term population trends and health of resident species.

Bottomland hardwood forest management would continue at the current rate of thinning to maintain a closed canopy forest and retain as much water tupelo and bald cypress as possible. The open fields would continue with manipulating water levels for the moist-soil and cooperative cropland management. Management for invasive species would continue with opportunistic treatment and mapping. Partnerships would continue with Louisiana Department of Wildlife and Fisheries for several biological programs, hunting regulations, and law enforcement issues. The refuge partners program would still develop projects with interested parties for carbon sequestration projects and for invasive species.

Hunting, fishing, and environmental education programs would continue to be the priority focus of public use on Tensas River NWR, with no expansion of current opportunities. Current restrictions or prohibitions would remain. Environmental education and wildlife observation and photography would be accommodated at present levels, with a few interpretive sites added. Staffing would remain at current level with no new positions added, but current vacancies would be advertised and filled.

Alternative B—Custodial Management Approach

This alternative is driven by reducing costs of funding and staffing, with reduced habitat and wildlife management and a reduced public use program. The biological information would be modified to develop management programs that could be implemented less frequently, yet still accomplish the objectives. Extensive baseline inventorying and monitoring programs would be conducted with several partners to provide a solid foundation of the current condition of refuge habitat and wildlife while monitoring for changes in trends.

Additional research projects would be implemented in this alternative, depending on granting opportunities and partnerships with other agencies and universities. An intensive bottomland hardwood forest inventory would be implemented to define current conditions and monitor natural successional changes. Management in the bottomlands would be limited so that the forest would go through natural succession as defined in a revised Forest Habitat Management Plan. Open fields would be allowed to go through natural succession to bottomland hardwood forests, and moist-soil units would not be maintained. Invasive species management would become a priority to establish baseline information on location and density and protocols for control. Partnerships would continue to be fostered for several biological programs, hunting regulations, law enforcement issues, and research projects.

Public use would be limited under this alternative, with custodial-level maintenance. Public use would be monitored more closely for impacts to wildlife, and if negative impacts occurred, new restrictions or closures would result. Deer hunting would be allowed when data demonstrated that the population had exceeded the habitat carrying capacity and a reduction in herd size was deemed necessary. An extensive survey for monitoring the deer population and its association with habitat conditions would be implemented. Fishing would continue as currently managed. Environmental education, wildlife observation, and wildlife photography would be accommodated at present levels; but access would be limited to July–October and February–April to minimize disturbance to migratory birds. Staffing would increase by four positions (*e.g.*, biologist, forester, and two maintenance workers) to handle the increase in biological inventorying and monitoring, and to control invasive species.

Alternative C—''Ecosystem Management'' (Proposed Action)

Biological potential of historical habitats is restored and enhanced, with most management actions emphasizing natural ecological processes to foster habitat functions and wildlife populations. The biological program would be enhanced with inventorying and monitoring, so that adaptive management could be implemented, primarily for migratory birds, but other species of wildlife could benefit as well. Through the use of grants and partnerships, migratory bird use and nesting success on the refuge would be evaluated. Partnerships would be developed to establish scientifically valid protocols and to collaboratively work on research projects that would provide information on how forest management is affecting wildlife.

Bottomland hardwood forest management would be developed based on an inventory defining current conditions. Bottomlands would have management increased to open the canopy cover and increase structural and vegetation diversity. Water control structures and pumping capability would be improved to enhance moist-soil and cropland management for the benefit of wintering waterfowl. Invasive species would be mapped and protocols for control established with the addition of a forester. Partnerships would continue to be fostered for several biological programs, hunting regulations, law enforcement issues, and research projects.

Under Alternative C, land acquisition, reforestation, and resource protection at Tensas River NWR would be intensified from the level now maintained in the ''No Action'' Alternative. In the refuge's Private Lands Program, staff would work with private landowners of adjacent tracts to manage and improve habitats. Staff would also explore opportunities with partners to protect existing and extend potential foraging areas off refuge lands. Alternative C would provide a full-time law enforcement officer, an equipment operator, a maintenance mechanic, and a wildlife technician. The refuge would develop and begin to implement a Cultural Resources Management Plan.

Within 3 years of implementing the CCP, refuge staff would develop a Visitor Services Plan for use in expanding public use facilities and opportunities on the refuge. This step-down management plan would provide overall, long-term direction and guidance in developing and running a larger public use program at Tensas River NWR. Alternative C would also increase opportunities for visitors by improving and/or adding facilities such as photo-blinds, observation sites, and trails.

Next Step

After the comment period ends, we will analyze the comments and address them.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57.

Dated: January 28, 2009.

Mike Piccirilli,

Acting Regional Director.

[FR Doc. E9–2304 Filed 2–3–09; 8:45 am]

BILLING CODE 4310–55–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–646]

In the Matter of Certain Power Supplies; Notice of Commission Determination Not To Review an Initial Determination Terminating the Investigation With Respect to Respondents Super Flower Computer, Inc. and Andyson International Co., Ltd. and Terminating the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (''ALJ'') initial determination (''ID'') (Order No. 18) granting the motion of complainants Ultra Products, Inc. and Systemax, Inc. to terminate the investigation with respect to respondents Super Flower Computer, Inc. and Andyson International Co., Ltd. based on withdrawal of allegations from the Complaint and terminating the investigation.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–2301. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 8, 2008, based on a complaint filed by Ultra Products, Inc. of Fletcher, Ohio and Systemax Inc. of Port Washington, New York (collectively ''Ultra''). 73 FR 26144–5 (May 8, 2008). The complaint, as amended and supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain power supplies by reason of infringement of certain claims of U.S. Patent No. 7,133,293. The complaint further alleges the existence of a domestic industry. The Commission's notice of investigation named a number of respondents including Andyson International Co., Ltd. of Taipei, Taiwan (''Andyson''). On July 21, 2008, the Commission determined not to review an ID granting Ultra's motion for leave to amend the complaint and notice of investigation to add a respondent, Super Flower Computer, Inc. (''Super Flower''). 73 FR 42365–6 (July 21, 2008).

On December 11, 2008, Ultra filed under Commission Rule 210.21(a) a motion for termination of the investigation with respect to respondents Andyson and Super Flower based on a withdrawal of allegations from the Complaint. Also on December 11, Ultra filed a motion to stay the procedural schedule pending the ALJ's decision on the motion to terminate. On December 22, 2008, the Commission Investigative Attorney filed a response in support of the motion to terminate Andyson and Super Flower. No other responses were filed.

On January 5, 2009, the ALJ issued the subject ID, granting under Commission Rule 210.21(a) Ultra's motion to terminate the investigation as to respondents Andyson and Super Flower. The ALJ noted that, with the termination of Andyson and Super Flower from the investigation, there are no longer any participating respondents in this investigation. All other named respondents were previously terminated from the investigation by way of settlement agreement, consent agreement, or default. The ALJ, therefore, terminated the investigation and stayed the procedural schedule. No petitions for review of this ID were filed.

The Commission has determined not to review the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42 of the Commission's

Rules of Practice and Procedure (19 CFR 210.42).

Issued: January 29, 2009.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–2293 Filed 2–3–09; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Supplemental Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

On January 15, 2009, the Department of Justice published notice of lodging of a proposed Consent Decree on January 9, 2009, with the *United States District Court for the District of Kansas in United States* v. *Citibank Global Market Holdings, Inc.,* Civil Action No. 09–CV–4002–SAC, under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9601–9675. *See* 74 FR 2617 (Jan. 15, 2009).

The Department of Justice hereby supplements its Notice to indicate that Citibank Global Market Holdings, Inc., is now known as Citigroup Global Market Holdings, Inc. Accordingly, the settlement parties are the United States, Citigroup Global Market Holdings, Inc., and the U.S. Steel Corporation. This opportunity to comment on the proposed consent decree is extended for 30 days from the date of publication of this Supplemental Notice.

Robert E. Maher, Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E9–2272 Filed 2–3–09; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Ladapo O. Shyngle, M.D.; Denial of Application

On April 15, 2008, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Ladapo O. Shyngle, M.D. (Respondent), of Tampa, Florida. The Show Cause Order proposed the denial of Respondent's pending application for a DEA Certificate of Registration as a practitioner, on the ground that his registration ''would be inconsistent with the public interest.'' Show Cause Order at 1.

More specifically, the Show Cause Order alleged that Respondent had issued controlled-substance prescriptions to customers of an internet site who were located throughout the United States based on a questionnaire and/or telephone consultation, and that these prescriptions lacked ''a legitimate medical purpose'' and were issued ''outside the usual course of professional practice, in violation of 21 CFR 1306.04(a) and 21 U.S.C. 841(a)(1).'' *Id.* The Order further alleged that notwithstanding that his Florida medical license had expired on August 24, 2002, Respondent continued to issue prescriptions for controlled substances. *Id.* Relatedly, the Order alleged that Respondent had violated other state laws prohibiting the unauthorized practice of medicine by issuing prescriptions for controlled substances to residents of States where he was not licensed to practice. *Id.* at 1–2.

On or about April 19, 2008, the Show Cause Order was served on Respondent by delivery to his residence. On May 14, 2008, Respondent requested a hearing on the allegations and the matter was placed on the docket of the Agency's Administrative Law Judges (ALJ).

On the same date, Respondent also sought to withdraw his application, explaining that the State of Florida had criminally charged him with engaging in the unlicensed practice of medicine, that he intended ''to vigorously defend'' against this charge, and that in light of the pending proceeding, it was premature for the Agency to consider his application. On May 29, 2008, the Deputy Assistant Administrator denied Respondent's request, reasoning that ''the facts supporting the Order to Show Cause will not be affected by the outcome of the state prosecution'' and that Respondent ''intend[ed] to continue professional medical practice and * * * reapply for a * * * [r]egistration at the conclusion of the state criminal case.'' Letter from Joseph T. Rannazzisi to Respondent's Counsel (May 29, 2008).

Thereafter, on July 9, 2008, Respondent withdrew his request for a hearing. The next day, the ALJ issued an order terminating the proceeding.

Based on Respondent's letter withdrawing his request for a hearing, I conclude that Respondent has waived his right to a hearing. I therefore enter this Final Order without a hearing based on relevant material contained in the investigate file, *see* 21 CFR 1301.43, and make the following findings.

Findings

On October 3, 2005, Respondent applied for a DEA Certificate of Registration as a practitioner which would authorize him to dispense controlled substances in schedules II through V, at the proposed location of 1493 Tampa Park Plaza, Tampa, Florida. Respondent previously held a practitioner's registration which was issued on December 11, 2000, and which expired on February 29, 2004.

On August 24, 2000, the Florida Department of Health issued a ''medical doctor restricted'' license to Respondent. The license expired, however, on August 24, 2002. Respondent did not obtain another medical license until September 16, 2005, when the Florida Department of Health issued him a ''medical doctor'' license. This license remains in effect until January 31, 2010. I further find that Respondent was not licensed in any other State when he committed the acts at issue here.

In 2002, Respondent was hired by Kenneth Shobola, the owner of a Tampa, Florida medical clinic (the Kenaday Medical Clinic), to perform consultations on persons who were seeking prescriptions for controlled substances through Shobola's Web sites. While Respondent saw some walk-in patients at the clinic, in an interview with DEA Investigators, he admitted that he saw only about five percent of the persons he prescribed to, and that his contact with most of the patients was limited to a telephone consultation which lasted five to ten minutes.

Based on the consultations, Respondent would then typically issue a prescription for a schedule III controlled substance containing hydrocodone; Respondent also issued prescriptions for diazepam (Valium), a schedule IV controlled substance, 21 CFR 1308.14(c), and some non-controlled drugs. While the prescriptions were initially filled at F & B Pharmacy (another Tampa-based pharmacy which was operated by Olu Oyekoya), F & B eventually pulled out of the arrangement and all of the prescriptions were then filled by Ken Drugs, a pharmacy owned by Shobola.

Respondent would perform up to twenty consultations a day for Shobola's clinic. According to computer records obtained by Investigators, Respondent issued over 3800 prescriptions which were filled by Shobola's pharmacy. Approximately seventy-five percent of the prescriptions were for hydrocodone, and between the original prescriptions and refills, Respondent authorized the dispensing of more than 500,000 dosage

units of the drug. Moreover, the prescriptions were issued to persons in forty-one different States.

When asked by Investigators how he had established a doctor-patient relationship with the patients he did not see, Respondent maintained that he did so because he ''actually spoke to the patient on the phone,'' and that the Web site which arranged the consultations had the patient's medical records and ''the driver's license to identify the patient.'' Respondent admitted, however, that because of the number of ''consults,'' ''seventy percent'' of the time he did not see a patient's medical records until after he had issued the prescription. Respondent also admitted that there were occasions when he never saw a patient's medical records. Respondent even admitted that ''we did do refills for patients'' who had not submitted records because ''the patient [was] already in the system, [and] we already kn[ew] about this patient.'' [1]

Respondent further stated that he was ''not sure whether the law actually gives specific guidelines as to what constitutes the patient/physician relationship because * * * when the laws were drawn there was no internet.'' When asked whether he was saying that he did not know if his prescribing was legal because he did not know the law, Respondent replied: ''No, what I'm saying is * * * I think the law the way it stands * * * makes a loophole available in terms of * * * what constitutes [the] patient/doctor relationship, when you * * * talk to the patient on the phone. * * * [T]hat is a leeway that's provided and that's what I had in mind when I got involved with * * * the whole thing.''

Respondent acknowledged, however, that this method of prescribing ''certainly'' opened the door to drug abuse and that ''providing medication through the internet has to provide safeguards to make sure that the patients are genuine, [that] they're not getting multiple drugs from different doctors and that * * * they actually have the problem that they're taking about.'' Moreover, Respondent stated to Investigators that ''the way we practiced * * * in Kennedy there's no way you could get all of those [illegitimate patients] out of the system * * * 100% of the time.'' Respondent further asserted that ''there was a good proportion of people that actually needed help that got the help,'' but acknowledged that ''there were quite a few that [were] just doctor hopping or * * * shopping for medication.''

As examples of Respondent's prescribing, the Government submitted copies of fourteen prescriptions which Respondent issued for such drugs as Norco (10/325 mg.), Lortab (10/500 mg.), Vicoprofen (7.5/200 mg.), and Vicodin (7.5/750 mg.), all of which are schedule III controlled substances containing hydrocodone. Most of the prescriptions were issued between October and December 2003, and were issued to patients in California, Massachusetts, Ohio, Oklahoma, Tennessee, Wisconsin, Washington (State), Mississippi, South Carolina, and Virginia.

Respondent also prescribed controlled substances to a married couple (Mr. & Mrs. C.W.), who had used driver's licenses and medical records of friends and family members, as well as falsified medical records (including MRIs), in order to create multiple identities and obtain larger quantities of drugs such as hydrocodone and alprazolam. The C.Ws. both consumed and sold the drugs.

Discussion

Section 303(f) of the Controlled Substances Act (CSA) provides that ''[t]he Attorney General may deny an application for [a practitioner's] registration if he determines that the issuance of such registration would be inconsistent with the public interest.'' 21 U.S.C. 823(f). In making the public interest determination, the Act requires the consideration of the following factors:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing * * * controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

Id.

[T]hese factors are * * * considered in the disjunctive.'' *Robert A. Leslie, M.D.,* 68 FR 15227, 15230 (2003). I may rely on any one or a combination of factors, and may give each factor the weight I deem appropriate in determining whether an application for a registration should be denied. *Id.* Moreover, I am ''not required to make findings as to all of the factors.'' *Hoxie* v. *DEA,* 419 F.3d 477, 482 (6th Cir. 2005); *see also Morall* v. *DEA,* 412 F.3d 165, 173–74 (D.C. Cir. 2005).

Having considered all the factors, I find that factors two and four provide ample support for the conclusion that granting Respondent's application for a registration would be ''inconsistent with the public interest.'' [2] 21 U.S.C. 823(f). Respondent's application will therefore be denied.

Factor Two and Four—Respondent's Experience in Dispensing Controlled Substances and Record of Compliance With Applicable Controlled Substance Laws

Under a longstanding DEA regulation, a prescription for a controlled substance is not ''effective'' unless it is ''issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.'' 21 CFR 1306.04(a). This regulation further provides that ''an order purporting to be a prescription issued not in the usual course of professional treatment * * * is not a prescription within the meaning and intent of [21 U.S.C. 829] and * * * the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances.'' *Id.* As the Supreme Court recently explained, ''the prescription requirement * * * ensures patients use controlled substances under the supervision of a doctor so as to prevent addiction and recreational abuse. As a corollary, [it] also bars doctors from peddling to patients who crave the drugs for those prohibited uses.'' *Gonzales* v. *Oregon,* 546 U.S. 243, 274 (2006) (citing *United States* v. *Moore,* 423 U.S. 122, 135 (1975)).

Under the CSA, it is fundamental that a practitioner must establish a bonafide

[1] Respondent also acknowledged that a patient had to have a physical exam at some point and maintained that the clinic had hired either nurses or paramedics to perform physical exams on patients. Even if true, this does not aid Respondent for two reasons: (1) Respondent has not established the circumstances in which it may be lawful under the laws of the various States for a physician to rely on a physical examination performed by a nurse or paramedic, and (2) Respondent acknowledged that seventy percent of the time he did not see the records until after he prescribed. Respondent thus routinely prescribed without any independent assessment and verification of his patients' medical complaints.

[2] I acknowledge that there is no evidence that the State of Florida has taken any action against Respondent's authority under State law to prescribe controlled substances. This Agency has long held, however, that a State's failure to take action against a practitioner's authority to dispense controlled substances is not dispositive in determining whether the granting of an application for registration would be consistent with the public interest. *See Mortimer B. Levin,* 55 FR 8209, 8210 (1990). I further note that Respondent alluded to his intention to vigorously contest a pending criminal charge based on his having engaged in the unlicensed practice of medicine. Under agency precedent, even if Respondent is acquitted of the charge(s), the judgment would not be dispositive in this proceeding, which focuses on the public interest. *Edmund Chein,* 72 FR 6580, 6593 n.22 (2007).

doctor-patient relationship in order to act ''in the usual course of * * * professional practice'' and to issue a prescription for a ''legitimate medical purpose.'' *Moore,* 423 U.S. at 141–43. At the time of the events at issue here, the CSA generally looked to state law to determine whether a doctor and patient have established a bonafide doctor-patient relationship. *See Kamir Garces-Mejias,* 72 FR 54931, 54935 (2007); *United Prescription Services, Inc.,* 72 FR 50397, 50407 (2007); *Dispensing and Purchasing Controlled Substances Over the Internet,* 66 FR at 21182–83.[3]

Moreover, shortly after the CSA's enactment, the Supreme Court explained that ''[i]n the case of a physician [the Act] contemplates that *he is authorized by the State to practice medicine* and to dispense drugs in connection with his professional practice.'' *Moore,* 423 U.S. at 140–41 (emphasis added). Accordingly, ''[a] physician who engages in the unauthorized practice of medicine'' under state laws ''is not a 'practitioner acting in the usual course of * * * professional practice' '' under the CSA. *United Prescription Services,* 72 FR at 50407 (quoting 21 CFR 1306.04(a)). This rule is supported by the plain meaning of the Act, which defines the ''[t]he term 'practitioner' [to] mean[] a physician * * * licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices * * * to * * * dispense * * * a controlled substance,'' 21 U.S.C. 802(21), and ''[t]he term 'dispense' [to] mean[] to deliver a controlled substance to an ultimate user * * * by, or pursuant to the lawful order of, a practitioner.'' *Id.* section 802(10). *See also id.* section 823(f) (''The Attorney General shall register practitioners * * * to dispense * * * if the applicant is authorized to dispense * * * controlled substances under the laws of the State in which he practices.'').

A controlled-substance prescription issued by a physician who lacks the license or other authority required to practice medicine within a State is therefore unlawful under the CSA. *See* 21 CFR 1306.04(a) (''An order purporting to be a prescription issued not in the usual course of professional treatment * * * is not a prescription within the meaning an intent of'' the CSA); *Cf.* 21 CFR 1306.03(a)(1) (''A prescription for a controlled substance may be issued only by an individual practitioner who is * * * [a]uthorized to prescribe controlled substances by the jurisdiction in which he is licensed to practice his profession[.]'').

The investigative file establishes numerous instances in which Respondent violated the prescription requirement of Federal law as well as various state laws. As found above, Respondent's initial Florida medical license expired on August 24, 2002, and Respondent did not obtain a new Florida license until September 16, 2005. Thus, at the time Respondent prescribed controlled substances to many of the customers of the Kenaday Medical Clinic, he did not even have authority to prescribe under Florida law, let alone the laws of the forty other States where his patients resided. *See* Fla. Stat. §§ 456.065 (2003); 458.327(1)(a) (2003); *see also, e.g.,* Cal. Bus. & Prof. Code section 2052(a) (2003) (prohibiting unlicensed practice of medicine); Cal. Health & Safety Code section 11352(a) (2003) (prohibiting furnishing of a controlled substance ''unless upon the written prescription of a physician * * * licensed to practice in this state''); Tenn. Comp. R. & Regs. 0880–2.16 (2003) (requiring license to ''engage in the practice of medicine across state lines in this State'').

As the California Court of Appeal has noted, the ''proscription of the unlicensed practice of medicine is neither an obscure nor an unusual state prohibition of which ignorance can reasonably be claimed, and certainly not by persons * * * who are licensed health care providers. Nor can such persons reasonably claim ignorance of the fact that authorization of a prescription pharmaceutical constitutes the practice of medicine.'' *Hageseth* v. *Superior Court,* 59 Cal. Rptr.3d 385, 403 (Ct. App. 2007). In issuing thousands of prescriptions while lacking the authority to do so under the laws of both Florida and the States where the patients resided, Respondent acted outside of ''the usual course of * * * professional practice'' and thereby violated the prescription requirement of the CSA (as well as numerous state laws). *See Moore,* 423 U.S. at 140–41; *United Prescription Services,* 72 FR at 50407; 21 CFR 1306.03.

Respondent violated the CSA's prescription requirement for an additional reason because he did not establish a bonafide doctor-patient relationship with the customers of the Web site. As Respondent admitted to the Investigators, with the possible exception of the small number of customers who appeared at the clinic, Respondent prescribed on the basis of a telephonic consultation and did not personally conduct a physical exam and take a medical history from the patients.

In his interview with the Investigators, Respondent gave two justifications for his prescribing. First, Respondent maintained that the law did not provide specific guidelines that addressed what constitutes a valid doctor-patient relationship in the context of the internet, asserting that those laws were enacted when ''there was no internet,'' and that he acted within a loophole. Second, he maintained that the clinic had hired nurses or paramedics who visited the patients and performed physical exams on them.

As for his first contention, at the time Respondent issued the prescriptions at issue here, numerous States had already adopted laws or regulations, or had issued policy statements, which made clear that Respondent's internet prescribing practices were illegal. *See, e.g.,* Cal. Bus. & Prof. Code section 2242.1(a); Tenn. Comp. R. & Regs. 0880–2.14(7) (2003) (''Prerequisites to Issuing Prescriptions''; prohibiting the prescribing or dispensing of ''any drug to any individual, whether in person or by electronic means or over the Internet or over telephone lines unless the physician, or his/her licensed supervisee pursuant to appropriate protocols or medical orders, has first done and appropriately documented, for the person to whom a prescription is to be issued or drugs dispensed * * * an appropriate history and physical examination''); Ohio Admin. Code 4731–11–09(A) (2003) (''Except in institutional settings, on call situations, cross coverage situations, situation involving new patients, protocol situations involving nurses practicing in accordance with standard care arrangements * * * a physician shall not prescribe, dispense, or otherwise provide, or cause to be provided, any controlled substance to a person who the physician has never personally physically examined and diagnosed.''); Oklahoma State Board of Medical Licensure and Supervision, *Policy on Internet Prescribing* (Ratified 01/25/01) (''Unprofessional conduct includes 'prescribing * * * a drug * * * without sufficient examination and the

[3] On October 15, 2008, the President signed into law the Ryan Haight Online Pharmacy Consumer Protection Act of 2008, Public Law 110–425, 122 Stat. 4820 (2008). Section 2 of the Act prohibits the dispensing of a prescription controlled substance ''by means of the Internet without a valid prescription,'' and defines, in relevant part, ''[t]he term 'valid prescription' [to] mean[] a prescription that is issued for a legitimate medical purpose in the usual course of professional practice by * * * a practitioner who has conducted at least 1 in-person medical evaluation of the patient.'' 122 Stat. 4820. Section 2 further defines ''[t]he term 'in-person medical evaluation' [to] mean[] a medical evaluation that is conducted with the patient in the physical presence of the practitioner, without regard to whether portions of the evaluation are conducted by other health professionals.'' *Id.* These provisions do not, however, apply to Respondent's conduct.

establishment of a valid physician/patient relationship' * * *. The members of the Oklahoma Medical Board have interpreted that a 'sufficient examination' and 'establishment of a valid physician/patient relationship' cannot take place without an initial face to face encounter with the patient.'') (emphasis in original and quoting Okla. Stat. tit. 59, section 509–13).

No more persuasive is Respondent's contention that his prescribings were lawful because the clinic used nurses or paramedics to perform physical examinations. Respondent did not provide any evidence to the Agency that the clinic's purported use of nurses to perform physical examinations was a lawful practice under the exceptions recognized by any State.[4]

Moreover, Respondent admitted to the Investigators that he routinely prescribed before he obtained medical records and in some cases he never reviewed records. Thus, even if some States allowed a physician to prescribe based on an exam performed by a nurse or paramedic in certain defined circumstances, a physical examination is a prerequisite to establishing a valid doctor-patient relationship. *See* Tenn. Comp R. & Regs 0880–2-.14(7). Generally, reviewing an examination conducted after the issuance of a prescription is not the usual course of professional practice.[5] I thus conclude that Respondent lacked a legitimate medical purpose and acted outside of the usual course of professional practice in issuing the prescriptions.

Respondent's prescribing practices clearly resulted in the diversion of controlled substances. As Respondent acknowledged in the interview, ''there were quite a few [patients] that [were] just doctor hopping or * * * shopping for medication.''[6] Indeed, as the record establishes, Respondent prescribed to two people who used falsified records and the driver's licenses of other persons, to obtain such highly abused controlled substances as hydrocodone and alprazolam, which they both personally abused and sold to others. Given the thousands of prescriptions he issued in this manner, there were likely numerous other instances in which he prescribed to persons who were seeking the drugs for illicit purposes.

It is therefore clear that Respondent committed acts which establish that granting him a new registration would be ''inconsistent with the public interest.'' 21 U.S.C. 823(f).[7] Respondent's application will therefore be denied.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f), as well as 28 CFR 0.100(b) & 0.104, I order that the application of Ladapo O. Shyngle, M.D., for a DEA Certificate of Registration as a practitioner be, and it hereby is, denied. This order is effective March 6, 2009.

Dated: January 27, 2009.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E9–2331 Filed 2–3–09; 8:45 am]

BILLING CODE 4410–09–P

[4] Even if some States authorize a physician to prescribe in some circumstances based on a physical exam performed by a nurse, Respondent was required to comply with the law of every State in which his patients resided. In any event, Respondent did not establish that his prescribing was lawful under the law of any State.

[5] It is acknowledged that the States generally allow a practitioner to issue a prescription in an emergency situation before conducting a physical exam. *See* 49 Pa. Code § 16.92(a). Some States also allow a practitioner to issue a short term continuation prescription for a new patient prior to a patient's first appointment, in an order admitting a patient to a hospital, or for a patient of another physician for whom the prescriber is taking calls. Tenn. Comp. R. & Regs. 0880–2-.14(7)(b). None of these exceptions apply here.

[6] I reject as self-serving Respondent's assertion that he believed that ''a good proportion of [the] people [he prescribed to] actually needed help'' because their original doctors had become ''weary'' of continuing to prescribe narcotics to them. Notably, Respondent did not identify a single instance in which he contacted the original physicians of the patients to even determine whether a patient had a legitimate medical condition which required the continued prescribing of a controlled substance. As Respondent himself recognized, internet prescribing invites ''doctor hopping'' and ''medication shopping'' by drug abusers and drug dealers. In short, as this Agency has found in the course of numerous investigations, the risk of diversion inherent in internet prescribing is extraordinary.

[7] In his request for a hearing, Respondent ''disagreed * * * that [the] prescriptions were issued without a legitimate medical purpose and outside the usual course of professional practice.'' While Respondent's counsel further represented that he did not intend to ''practic[e] medicine in any way related to an Internet pharmacy,'' Respondent has not satisfied the Agency's standard for obtaining a new registration, which requires that an applicant accept responsibility for his misconduct and acknowledge his wrongdoing. *See, e.g., Medicine Shoppe—Jonesborough,* 73 FR 364, 387 (2008) (collecting cases), *aff'd, Medicine Shoppe-Jonesborough* v. *DEA,* slip op. at 9–10 (6th Cir. Nov. 13, 2008); *Hoxie* v. *DEA,* 419 F.3d 477, 483 (6th Cir, 2005) (''admitting fault'' is ''properly consider[ed]'' by DEA to be an ''important factor[]'' in the public interest determination).

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 06–72]

Foothills Family Pharmacy (Boulder) and Foothills Family Pharmacy (Lafayette); Declaratory Order Terminating Registrations

On August 14, 2006, the Deputy Assistant Administrator, Office of Diversion Control, issued an Order to Show Cause to Foothills Family Pharmacy of Boulder, Colorado, and Foothills Family Pharmacy of Lafayette, Colorado (Respondents). The Order proposed the revocation of each Respondent's DEA Certificate of Registration as a retail pharmacy, and the denial of any applications filed by either Respondent to renew or modify its registration, on the ground that each Respondent's ''continued registration would be inconsistent with the public interest.'' Show Cause Order at 1. More specifically, the Order alleged that each pharmacy had violated its ''corresponding responsibility'' under Federal law by filling prescriptions for controlled substances which were unlawful because they were not '' 'issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.' '' *Id.* at 3 (quoting 21 CFR 1306.04(a)).

Respondents requested a hearing on the allegations, and the matter was placed on the docket of the Agency's Administrative Law Judges (ALJ). Following prehearing procedures, the parties agreed to submit documents and written statements of position to the ALJ in lieu of a trial-type hearing. Subsequent to their filings, the parties also submitted briefs containing their proposed conclusions of law and arguments.

On June 20, 2008, the ALJ issued her recommended decision. In her decision, the ALJ concluded that the Government had established that each ''Respondent's continued registration would be inconsistent with the public interest.'' ALJ at 42. The ALJ thus recommended that each Respondent's registration be revoked and that any pending applications be denied. The record was then forwarded to me for final agency action.

Thereafter, the Government obtained information that each Respondent was closed and no longer conducting business. Gov. Mot. for Declaratory Order at 2. Accordingly, the Government filed a motion seeking an order declaring each Respondent's registration terminated on the ground

that they had gone out of business. *Id.* Attached to the motion was the Affidavit (Dated 10/16/08) of a DEA Diversion Investigator. In her Affidavit, the Investigator stated that on September 4, 2008, she had spoken with the Program Director of the Colorado Board of Pharmacy and had been told that the Foothills Family Pharmacy of Lafayette had been closed since January 2008. Affidavit at 1–2. The Investigator further stated that she had also spoken with an Inspector for the Colorado Board who advised her that Calvin Tyree, the owner of Foothills Family Pharmacy of Boulder, had submitted the document required to close the pharmacy. *Id.* at 2. The Investigator further stated that she had confirmed the latter pharmacy's closing with some of its former employees. *Id.*

On November 18, 2008, I issued an Order granting Respondents fifteen days to respond to the Government's motion. Neither Respondent has filed a response.

Based on the Affidavit, I find that each Respondent has discontinued business or professional practice. Under 21 CFR 1301.52, ''the registration of any person shall terminate if and when such person dies, ceases legal existence, or discontinues business or professional practice.'' Accordingly, I will grant the Government's motion and declare that each Respondent's registration has terminated. I will also order that any pending applications submitted by either Respondent be denied.

Order

Pursuant to the authority vested in me under 5 U.S.C. 554(e), as well as 28 CFR 0.100(b) & 0.104, I grant the Government's motion and hereby declare terminated DEA Certificate of Registration, BF8528361, issued to Foothills Family Pharmacy of Boulder, Colorado, and DEA Certificate of Registration, BF8933334, issued to Foothills Family Pharmacy of Lafayette, Colorado. I further order that any pending applications of Foothills Family Pharmacy of Boulder, Colorado, and Foothills Family Pharmacy of Lafayette, Colorado, be, and they hereby are, denied. This Order is effective immediately.

Dated: January 27, 2009.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E9–2330 Filed 2–3–09; 8:45 am]

BILLING CODE 4410–09–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–302; NRC–2009–0039]]

Florida Power Corporation Notice of Receipt and Availability of Application for Renewal of Crystal River Unit 3 Nuclear Generating Plant Facility Operating License No. DPR–72 for an Additional 20-Year Period

The U.S. Nuclear Regulatory Commission (NRC) has received an application, dated December 16, 2008, from Florida Power Corporation, filed pursuant to Section 104b of the Atomic Energy Act of 1954, as amended, and Title 10 of the *Code of Federal Regulations* Part 54 (10 CFR Part 54), to renew the operating license for the Crystal River Unit 3 Nuclear Generating Plant (CR–3). Renewal of the license would authorize the applicant to operate the facility for an additional 20-year period beyond the period specified in the current operating license. The current operating license for CR–3 expires on December 3, 2016. CR–3 is a pressurized-water reactor designed by Combustion Engineering that is located in Citrus County, Florida. The acceptability of the tendered application for docketing, and other matters including an opportunity to request a hearing, will be the subject of subsequent **Federal Register** notices.

Copies of the application are available to the public at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852 or through the internet from the NRC's Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room under Accession Number ML090080053. The ADAMS Public Electronic Reading Room is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html*. In addition, the application is available at *http://www.nrc.gov/reactors/operating/licensing/renewal/applications.html*. Persons who do not have access to the Internet or who encounter problems in accessing the documents located in ADAMS should contact the NRC's PDR reference staff at 1–800–397–4209, extension 4737, or by e-mail to *pdr@nrc.gov*.

A copy of the license renewal application for CR–3 is also available to local residents near the site at the Coastal Region Library, 8619 W. Crystal St., Crystal River, FL 34428–4468.

Dated at Rockville, Maryland, this 29th day of January, 2009.

For the Nuclear Regulatory Commission.

Brian E. Holian,

Director, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. E9–2323 Filed 2–3–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–36545; NRC–2009–0038]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment to Byproduct Materials License No. 29–30906–01, for Unrestricted Release of the Signum Biosciences, Inc.'s Facility in Monmouth Junction, NJ

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Environmental Assessment and Finding of No Significant Impact for License Amendment.

FOR FURTHER INFORMATION CONTACT: Steve Hammann, Health Physicist, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region I, 475 Allendale Road, King of Prussia, Pennsylvania; telephone 610–337–5399; fax number 610–337–5269; or by e-mail: *stephen.hammann@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of a license amendment to Byproduct Materials License No. 29–30906–01. This license is held by Signum Biosciences, Inc. (Licensee), for its facility located at 1 Deer Park Drive in Monmouth Junction, New Jersey (Facility). Issuance of the amendment would authorize release of the Facility for unrestricted use. The Licensee requested this action in a letter dated April 14, 2008. The NRC has prepared an Environmental Assessment (EA) in support of this proposed action in accordance with the requirements of Title 10, *Code of Federal Regulations* (CFR), Part 51 (10 CFR Part 51). Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate with respect to the proposed action. The amendment will be issued to the Licensee following the publication of this FONSI and EA in the **Federal Register**.

II. Environmental Assessment

Identification of Proposed Action

The proposed action would approve the Licensee's request, resulting in release of the Facility for unrestricted use. License No. 29–30906–01 was issued on May 18, 2004, pursuant to 10 CFR Part 30, and has been amended periodically since that time. This license authorized the Licensee to use unsealed byproduct material for purposes of conducting research and development activities on laboratory bench tops.

The Facility consists of 5,800 square feet of office space and laboratories. The Facility is located in a commercial area. Within the Facility, use of licensed materials was confined to two laboratories totaling 2,500 square feet.

On March 19, 2008, the Licensee ceased licensed activities and initiated a survey and decontamination of the Facility. Based on the Licensee's historical knowledge of the site and the conditions of the Facility, the Licensee determined that only routine decontamination activities, in accordance with their NRC-approved, operating radiation safety procedures, were required. The Licensee was not required to submit a decommissioning plan to the NRC because worker cleanup activities and procedures are consistent with those approved for routine operations. The Licensee conducted surveys of the Facility and provided information to the NRC to demonstrate that it meets the criteria in subpart E of 10 CFR part 20 for unrestricted release.

Need for the Proposed Action

The Licensee has ceased conducting licensed activities at the Facility, and seeks the unrestricted use of its Facility.

Environmental Impacts of the Proposed Action

The historical review of licensed activities conducted at the Facility shows that such activities involved use of the following radionuclides with half-lives greater than 120 days: Hydrogen-3 and carbon-14. Prior to performing the final status survey, the Licensee conducted decontamination activities, as necessary, in the areas of the Facility affected by these radionuclides.

The Licensee conducted a final status survey on March 19, 2008. This survey covered the laboratories in which radionuclides were used. The final status survey report was attached to the Licensee's amendment request dated April 14, 2008. The Licensee elected to demonstrate compliance with the radiological criteria for unrestricted release as specified in 10 CFR 20.1402 by using the screening approach described in NUREG–1757, ''Consolidated NMSS Decommissioning Guidance,'' Volume 2. The Licensee used the radionuclide-specific derived concentration guideline levels (DCGLs), developed there by the NRC, which comply with the dose criterion in 10 CFR 20.1402. These DCGLs define the maximum amount of residual radioactivity on building surfaces, equipment, and materials, and in soils, that will satisfy the NRC requirements in Subpart E of 10 CFR Part 20 for unrestricted release. The Licensee's final status survey results were below these DCGLs and are in compliance with the As Low As Reasonably Achievable (ALARA) requirement of 10 CFR 20.1402. The NRC thus finds that the Licensee's final status survey results are acceptable.

Based on its review, the staff has determined that the affected environment and any environmental impacts associated with the proposed action are bounded by the impacts evaluated by the ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities'' (NUREG–1496) Volumes 1–3 (ML042310492, ML042320379, and ML042330385). The staff finds there were no significant environmental impacts from the use of radioactive material at the Facility. The NRC staff reviewed the docket file records and the final status survey report to identify any non-radiological hazards that may have impacted the environment surrounding the Facility. No such hazards or impacts to the environment were identified. The NRC has identified no other radiological or non-radiological activities in the area that could result in cumulative environmental impacts.

The NRC staff finds that the proposed release of the Facility for unrestricted use is in compliance with 10 CFR 20.1402. Based on its review, the staff considered the impact of the residual radioactivity at the Facility and concluded that the proposed action will not have a significant effect on the quality of the human environment.

Environmental Impacts of the Alternatives to the Proposed Action

Due to the largely administrative nature of the proposed action, its environmental impacts are small. Therefore, the only alternative the staff considered is the no-action alternative, under which the staff would leave things as they are by simply denying the amendment request. This no-action alternative is not feasible because it conflicts with 10 CFR 30.36(d), requiring that decommissioning of byproduct material facilities be completed and approved by the NRC after licensed activities cease. The NRC's analysis of the Licensee's final status survey data confirmed that the Facility meets the requirements of 10 CFR 20.1402 for unrestricted release. Additionally, denying the amendment request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the no-action alternative are therefore similar, and the no-action alternative is accordingly not further considered.

Conclusion

The NRC staff has concluded that the proposed action is consistent with the NRC's unrestricted release criteria specified in 10 CFR 20.1402. Because the proposed action will not significantly impact the quality of the human environment, the NRC staff concludes that the proposed action is the preferred alternative.

Agencies and Persons Consulted

NRC provided a draft of this Environmental Assessment to the State of New Jersey Department of Environmental Protection for review on November 24, 2008. On December 18, 2008, the Department of Environmental Protection responded by letter. The State agreed with the conclusions of the EA, and otherwise had no comments.

The NRC staff has determined that the proposed action is of a procedural nature, and will not affect listed species or critical habitat. Therefore, no further consultation is required under Section 7 of the Endangered Species Act. The NRC staff has also determined that the proposed action is not the type of activity that has the potential to cause effects on historic properties. Therefore, no further consultation is required under Section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

The NRC staff has prepared this EA in support of the proposed action. On the basis of this EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted. Accordingly, the NRC has determined that a Finding of No Significant Impact is appropriate.

IV. Further Information

Documents related to this action, including the application for license amendment and supporting

documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html*. From this site, you can access the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents related to this action are listed below, along with their ADAMS accession numbers.

1. NUREG–1757, ''Consolidated NMSS Decommissioning Guidance;''

2. Title 10 *Code of Federal Regulations*, Part 20, Subpart E, ''Radiological Criteria for License Termination;''

3. Title 10, *Code of Federal Regulations*, Part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions;''

4. NUREG–1496, ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities;''

5. Amendment Request Letter dated April 14, 2008 (ML081190328);

6. Request for additional information dated June 12, 2008 (ML081680055); and

7. Deficiency response letter dated September 3, 2008 (ML082700975).

If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *PDR.Resource@nrc.gov*. These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Region I, 475 Allendale Road, King of Prussia, PA this 26th day of January 2009.

For the Nuclear Regulatory Commission.

James P. Dwyer,

Chief, Commercial and R&D Branch, Division of Nuclear Materials Safety Region I.

[FR Doc. E9–2362 Filed 2–3–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–16033; NRC–2009–0037]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment to Byproduct Materials License No. 29–19080–01 for Termination of the License and Unrestricted Release of Seiko Corporaton of America's Facility in Mahwah, NJ

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Environmental Assessment and Finding of No Significant Impact for License Amendment.

FOR FURTHER INFORMATION CONTACT: Dennis Lawyer, Health Physicist, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region I, 475 Allendale Road, King of Prussia, Pennsylvania; telephone 610–337–5366; fax number 610–337–5269 or by e-mail: *dennis.lawyer@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of a license amendment to Byproduct Materials License No. 29–19080–01. This license is held by Seiko Corporation of America (the Licensee), for its Seiko Building located at 1111 MacArthur Boulevard in Mahway, New Jersey (the Facility). Issuance of the amendment would authorize release of the Facility for unrestricted use and termination of the NRC license. The Licensee requested this action in a letter dated September 29, 2008. The NRC has prepared an Environmental Assessment (EA) in support of this proposed action in accordance with the requirements of Title 10, *Code of Federal Regulations* (CFR), part 51 (10 CFR part 51). Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate with respect to the proposed action. The amendment will be issued to the Licensee following the publication of this FONSI and EA in the **Federal Register**.

II. Environmental Assessment

Identification of Proposed Action

The proposed action would approve the Licensee's September 29, 2008, license amendment request, resulting in release of the Facility for unrestricted use and the termination of its NRC materials license. License No. 29–19080–01 was issued on December 6, 1991, pursuant to 10 CFR Part 30, and has been amended periodically since that time. This license authorized the Licensee to use luminous paint contained on time piece hands and dials for purposes of possession and storage prior to distribution and the repair of watches including replacements of parts.

The Facility is situated within a 141,000 square foot building containing the repair shop and warehouse. Within the Facility, use of licensed materials was confined to 6,000 square feet. The Facility is located in a mixed residential/commercial area. Within the Facility, the radionuclide of concern was promethium 147 because its half-life is greater than 120 days.

On May 30, 2008, the Licensee ceased licensed activities and initiated a survey and decontamination of the Facility. Based on the Licensee's historical knowledge of the site and the conditions of the Facility, the Licensee determined that only routine decontamination activities, in accordance with their NRC-approved operating radiation safety procedures were required. The Licensee was not required to submit a decommissioning plan to the NRC because worker cleanup activities and procedures are consistent with those approved for routine operations. The Licensee conducted surveys of the Facility and provided information to the NRC to demonstrate that it meets the criteria in Subpart E of 10 CFR part 20 for unrestricted release and for license termination.

Need for the Proposed Action

The Licensee has ceased conducting licensed activities at the Facility, and seeks the unrestricted use of its Facility and the termination of its NRC materials license. Termination of its license would end the Licensee's obligation to pay annual license fees to the NRC.

Environmental Impacts of the Proposed Action

The historical review of licensed activities conducted at the Facility shows that such activities involved use of the following radionuclide with half-lives greater than 120 days: Promethium 147. Prior to performing the final status survey, the Licensee conducted decontamination activities, as necessary, in the areas of the Facility affected by this radionuclide.

The Licensee conducted a final status survey during September 2008. The final status survey report was attached to the Licensee's letter dated September 29, 2008. The Licensee elected to demonstrate compliance with the radiological criteria for unrestricted

release as specified in 10 CFR 20.1402 by using the screening approach described in NUREG–1757, ''Consolidated NMSS Decommissioning Guidance,'' Volume 2. The Licensee used the radionuclide-specific derived concentration guideline levels (DCGLs), developed there by the NRC, which comply with the dose criterion in 10 CFR 20.1402. These DCGLs define the maximum amount of residual radioactivity on building surfaces, equipment, and materials, which will satisfy the NRC requirements in Subpart E of 10 CFR Part 20 for unrestricted release. The Licensee's final status survey results were below these DCGLs and are in compliance with the As Low As Reasonably Achievable (ALARA) requirement of 10 CFR 20.1402. The NRC thus finds that the Licensee's final status survey results are acceptable.

Based on its review, the staff has determined that the affected environment and any environmental impacts associated with the proposed action are bounded by the impacts evaluated by the ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities'' (NUREG–1496) Volumes 1–3 (ML042310492, ML042320379, and ML042330385). The staff finds there were no significant environmental impacts from the use of radioactive material at the Facility. The NRC staff reviewed the docket file records and the final status survey report to identify any non-radiological hazards that may have impacted the environment surrounding the Facility. No such hazards or impacts to the environment were identified. The NRC has identified no other radiological or non-radiological activities in the area that could result in cumulative environmental impacts.

The NRC staff finds that the proposed release of the Facility for unrestricted use and the termination of the NRC materials license is in compliance with 10 CFR 20.1402. Based on its review, the staff considered the impact of the residual radioactivity at the Facility and concluded that the proposed action will not have a significant effect on the quality of the human environment.

Environmental Impacts of the Alternatives to the Proposed Action

Due to the largely administrative nature of the proposed action, its environmental impacts are small. Therefore, the only alternative the staff considered is the no-action alternative, under which the staff would leave things as they are by simply denying the amendment request. This no-action alternative is not feasible because it conflicts with 10 CFR 30.36(d), requiring that decommissioning of byproduct material facilities be completed and approved by the NRC after licensed activities cease. The NRC's analysis of the Licensee's final status survey data confirmed that the Facility meets the requirements of 10 CFR 20.1402 for unrestricted release and for license termination. Additionally, denying the amendment request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the no-action alternative are therefore similar, and the no-action alternative is accordingly not further considered.

Conclusion

The NRC staff has concluded that the proposed action is consistent with the NRC's unrestricted release criteria specified in 10 CFR 20.1402. Because the proposed action will not significantly impact the quality of the human environment, the NRC staff concludes that the proposed action is the preferred alternative.

Agencies and Persons Consulted

NRC provided a draft of this Environmental Assessment to the State of New Jersey Department of Environmental Protection for review on December 2, 2008. On December 23, 2008, the State of New Jersey Department of Environmental Protection responded by letter. The State agreed with the conclusions of the EA, and otherwise had no comments.

The NRC staff has determined that the proposed action is of a procedural nature, and will not affect listed species or critical habitat. Therefore, no further consultation is required under Section 7 of the Endangered Species Act. The NRC staff has also determined that the proposed action is not the type of activity that has the potential to cause effects on historic properties. Therefore, no further consultation is required under Section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

The NRC staff has prepared this EA in support of the proposed action. On the basis of this EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted. Accordingly, the NRC has determined that a Finding of No Significant Impact is appropriate.

IV. Further Information

Documents related to this action, including the application for license amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html*. From this site, you can access the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents related to this action are listed below, along with their ADAMS accession numbers.

1. NUREG–1757, ''Consolidated NMSS Decommissioning Guidance;''

2. Title 10 *Code of Federal Regulations,* Part 20, Subpart E, ''Radiological Criteria for License Termination;''

3. Title 10, *Code of Federal Regulations,* Part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions;''

4. NUREG–1496, ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities;''

5. Seiko Corporation of America's letter dated September 29, 2008 [ML082810232]; and

6. Seiko Corporation of America's letter dated November 13, 2008 [ML083231061].

If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *PDR.Resource@nrc.gov*. These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Region I, 475 Allendale Road, King of Prussia, PA, this 26th day of January 2009.

For the Nuclear Regulatory Commission.

James P. Dwyer,

Chief, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region I.

[FR Doc. E9–2324 Filed 2–3–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–037; NRC–2008–0556]

AmerenUE; Notice of Hearing and Opportunity To Petition for Leave To Intervene and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation on a Combined License for the Callaway Plant Unit 2

Pursuant to the Atomic Energy Act of 1954, as amended, and the regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 2, ''Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders,'' 10 CFR Part 50, ''Domestic Licensing of Production and Utilization Facilities,'' and 10 CFR Part 52, ''Licenses, Certifications, and Approvals for Nuclear Power Plants,'' notice is hereby given that a hearing will be held, at a time and place to be set in the future by the U.S. Nuclear Regulatory Commission (NRC, the Commission) or designated by the Atomic Safety and Licensing Board (Board). The hearing will consider the application dated July 28, 2008, filed by AmerenUE, pursuant to Subpart C of 10 CFR Part 52, for a combined license (COL). The application, which was supplemented by the applicant by letters dated September 24, 2008, November 14, 2008 and November 25, 2008, requests approval of a COL for Callaway Plant Unit 2 to be located in Callaway County, Missouri. The application was accepted for docketing on December 12, 2008. The docket number established for this application is 52–037. The Callaway Plant Unit 2 COL application incorporates by reference the application for a standard Design Certification for the U.S. EPR submitted to NRC by AREVA NP on December 11, 2007.

The hearing will be conducted by a Board that will be designated by the Chairman of the Atomic Safety and Licensing Board Panel or will be conducted by the Commission. Notice as to the membership of the Board will be published in the **Federal Register** at a later date. The NRC staff will complete a detailed technical review of the application and will document its findings in a safety evaluation report. The Commission will refer a copy of the application to the Advisory Committee on Reactor Safeguards (ACRS) in accordance with 10 CFR 52.87, ''Referral to the ACRS,'' and the ACRS will report on those portions of the application that concern safety. Any person whose interest may be affected by this proceeding and desire to participate as a party to this proceeding must file a written petition for leave to intervene in accordance with 10 CFR 2.309. Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

A petition for a leave to intervene must be filed no later than 60 days from the date of publication of this notice in the **Federal Register**. Non-timely filings will not be entertained absent a determination by the Commission or presiding officer designated to rule on the petition, pursuant to the requirements of 10 CFR 2.309(c)(i)–(viii).

All documents filed in NRC adjudicatory proceedings, including petitions to intervene and requests to participate as an interested government entity under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule, which was promulgated by the NRC on August 28, 2007 (72 FR 49139). The E-Filing process requires participants to submit and serve documents over the internet or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the petitioner must contact the Office of the Secretary by e-mail at *HearingDocket@nrc.gov*, or by calling (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each participant will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html*. Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html*.

Once a participant has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC Meta-System Help Desk, which is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday. The Meta-System Help Desk can be contacted by telephone at 1–866–672–7640 or by e-mail at *MSHD.Resource@nrc.gov*.

Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or

expedited delivery service upon depositing the document with the provider of the service.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii). To be timely, filings must be submitted no later than 11:59 p.m. Eastern Time on the due date.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp*, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Any person who files a motion pursuant to 10 CFR 2.323 must consult with counsel for the applicant and counsel for the NRC staff who are listed below. Counsel for the applicant is Jay Silberg, *jay.silberg@pillsburylaw.com,* (202) 663–8063. Counsel for the NRC staff in this proceeding is Ann Hodgdon, *ann.hodgdon@nrc.gov,* (301) 415–1587.

A person who is not a party may be permitted to make a limited appearance by making an oral or written statement of his position on the issues at any session of the hearing or any pre-hearing conference within the limits and conditions fixed by the presiding officer, but may not otherwise participate in the proceeding. These limited appearance statements need not be submitted using the E-Filing process.

Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and will be accessible electronically through the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room link at the NRC Web site *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.* The application is also available at *http://www.nrc.gov/reactors/new-reactors/col/callaway.html.* The ADAMS accession number for the COL application cover letter is ML082140630. One may search for documents in ADAMS using the Callaway Plant Unit 2 COL application docket number 52–037 by entering the term ''05200037'' in the ''Docket Number'' field when using either the web-based search (advanced search) engine or the ADAMS find tool in CITRIX. The AREVA Design Control Document (DCD), Rev. 0, which is incorporated by reference, can be found by going to *http://www.nrc.gov/reactors/new-reactors/design-cert/epr.html.* To review available documents related to AREVA's U.S. EPR design certification by using the docket number, the term ''05200020'' may be entered in the ADAMS ''Docket Number'' field.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation

1. This order contains instructions regarding how potential parties to this proceeding may request access to documents containing sensitive unclassified information (including sensitive unclassified non-safeguards information (SUNSI) and safeguards information (SGI)).

2. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party as defined in 10 CFR 2.4 who believes access to SUNSI or SGI is necessary for a response to the notice may request access to SUNSI or SGI. A ''potential party'' is any person who intends or may intend to participate as a party by demonstrating standing and the filing of an admissible contention under 10 CFR 2.309. Requests submitted later than 10 days will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

3. The requester shall submit a letter requesting permission to access SUNSI and/or SGI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, *Attention:* Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The e-mail address for the Office of the Secretary and the Office of the General Counsel are *HearingDocket@nrc.gov* and *OGCmail@nrc.gov,* respectively.[1] The request must include the following information:

a. A description of the licensing action with a citation to this **Federal Register** notice of hearing and opportunity to petition for leave to intervene;

b. The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in item a. above;

c. If the request is for SUNSI, the identity of the individual requesting access to SUNSI and the requester's need for the information in order to meaningfully participate in this adjudicatory proceeding, particularly why publicly available versions of the application would not be sufficient to provide the basis and specificity for a proffered contention;

d. If the request is for SGI, the identity of the individual requesting access to SGI and the identity of any expert, consultant or assistant who will aid the requester in evaluating the SGI, and information that shows:

(i) Why the information is indispensable to meaningful participation in this licensing proceeding; and

(ii) The technical competence (demonstrable knowledge, skill, experience, training or education) of the requester to understand and use (or evaluate) the requested information to provide the basis and specificity for a proffered contention. The technical competence of a potential party or its counsel may be shown by reliance on a qualified expert, consultant or assistant who demonstrates technical competence as well as trustworthiness and reliability, and who agrees to sign a non-disclosure affidavit and be bound by the terms of a protective order; and

e. If the request is for SGI, Form SF–85, ''Questionnaire for Non-Sensitive Positions,'' Form FD–258 (fingerprint card), and a credit check release form completed by the individual who seeks access to SGI and each individual who will aid the requester in evaluating the SGI. For security reasons, Form SF–85 can only be submitted electronically,

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI and/or SGI under these procedures should be submitted as described in this paragraph.

through a restricted-access database. To obtain online access to the form, the requester should contact the NRC's Office of Administration at 301–492–3524.[2] The other completed forms must be signed in original ink, accompanied by a check or money order payable in the amount of $200.00 to the U.S. Nuclear Regulatory Commission for each individual, and mailed to the U.S. Nuclear Regulatory Commission, Office of Administration, Security Processing Unit, Mail Stop TWB–05 B32M, Washington, DC 20555–0012. These forms will be used to initiate the background check, which includes fingerprinting as part of a criminal history records check. **Note:** Copies of these forms do *not* need to be included with the request letter to the Office of the Secretary, but the request letter should state that the forms and fees have been submitted as described above.

4. To avoid delays in processing requests for access to SGI, all forms should be reviewed for completeness and accuracy (including legibility) before submitting them to the NRC. Incomplete packages will be returned to the sender and will not be processed.

5. Based on an evaluation of the information submitted under items 2 and 3.a through 3.d, above, the NRC staff will determine within 10 days of receipt of the written access request whether (1) there is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding, and (2) there is a legitimate need for access to SUNSI or need to know the SGI requested. For SGI, the need to know determination is made based on whether the information requested is necessary (*i.e.,* indispensable) for the proposed recipient to proffer and litigate a specific contention in this NRC proceeding,[3] and whether the proposed recipient has the technical competence (demonstrable knowledge, skill, training, education, or experience) to evaluate and use the specific SGI requested in this proceeding.

6. If standing and need to know SGI are shown, the NRC staff will further determine based upon completion of the background check whether the proposed recipient is trustworthy and reliable. The NRC staff will conduct (as necessary) an inspection to confirm that the recipient's information protection systems are sufficient to protect SGI from inadvertent release or disclosure. Recipients may opt to view SGI at the NRC's facility rather than establish their own SGI protection program to meet SGI protection requirements.

7. A request for access to SUNSI or SGI will be granted if:

a. The request has demonstrated that there is a reasonable basis to believe that a potential party is likely to establish standing to intervene or to otherwise participate as a party in this proceeding;

b. The proposed recipient of the information has demonstrated a need for SUNSI or a need to know for SGI, and that the proposed recipient of SGI is trustworthy and reliable;

c. The proposed recipient of the information has executed a non-disclosure agreement or affidavit and agrees to be bound by the terms of a protective order setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI and/or SGI; and

d. The presiding officer has issued a protective order concerning the information or documents requested.[4] Any protective order issued shall provide that the petitioner must file SUNSI or SGI contentions 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.

8. If the request for access to SUNSI or SGI is granted, the terms and conditions for access to sensitive unclassified information will be set forth in a draft protective order and affidavit of non-disclosure appended to a joint motion by the NRC staff, any other affected parties to this proceeding,[5] and the petitioner(s). If the diligent efforts by the relevant parties or petitioner(s) fail to result in an agreement on the terms and conditions for a draft protective order or non-disclosure affidavit, the relevant parties to the proceeding or the petitioner(s) should notify the presiding officer within 5 days, describing the obstacles to the agreement.

9. If the request for access to SUNSI is denied by the NRC staff or a request for access to SGI is denied by NRC staff either after a determination on standing and need to know or, later, after a determination on trustworthiness and reliability, the NRC staff shall briefly state the reasons for the denial. Before the Office of Administration makes an adverse determination regarding access, the proposed recipient must be provided an opportunity to correct or explain information. The requester may challenge the NRC staff's adverse determination with respect to access to SUNSI or with respect to standing or need to know for SGI by filing a challenge within 5 days of receipt of that determination with (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer. In the same manner, an SGI requester may challenge an adverse determination on trustworthiness and reliability by filing a challenge within 15 days of receipt of that determination.

In the same manner, a party other than the requester may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within 5 days of the notification by the NRC staff of its grant of such a request.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[6]

[2] The requester will be asked to provide his or her full name, social security number, date and place of birth, telephone number, and e-mail address. After providing this information, the requester usually should be able to obtain access to the online form within one business day.

[3] Broad SGI requests under these procedures are thus highly unlikely to meet the standard for need to know; furthermore, staff redaction of information from requested documents before their release may be appropriate to comport with this requirement. These procedures do not authorize unrestricted disclosure or less scrutiny of a requester's need to know than ordinarily would be applied in connection with an already-admitted contention.

[4] If a presiding officer has not yet been designated, the Chief Administrative Judge will issue such orders, or will appoint a presiding officer to do so.

[5] Parties/persons other than the requester and the NRC staff will be notified by the NRC staff of a favorable access determination (and may participate in the development of such a motion and protective order) if it concerns SUNSI and if the party/person's interest independent of the proceeding would be harmed by the release of the information (e.g., as with proprietary information).

[6] As of October 15, 2007, the NRC's final ''E-Filing Rule'' became effective. See Use of Electronic Submissions in Agency Hearings (72 FR 49139; August 28, 2007). Requesters should note that the filing requirements of that rule apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI/SGI requests submitted to the NRC staff under these procedures.

10. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI and/or SGI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

Dated at Rockville, Maryland, this 29th day of January 2009.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

Attachment 1—General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information in This Proceeding

Day	Event/Activity
0	Publication of FEDERAL REGISTER notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to sensitive unclassified non-safeguards information (SUNSI) and/or safeguards information (SGI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding; demonstrating that access should be granted (*e.g.,* showing technical competence for access to SGI); and, for SGI, including application fee for fingerprint/background check.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI and/or SGI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows (1) need for SUNSI or (2) need to know for SGI. (For SUNSI, NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents). If NRC staff makes the finding of need to know for SGI and likelihood of standing, NRC staff begins background check (including fingerprinting for a criminal history records check), information processing (preparation of redactions or review of redacted documents), and readiness inspections.
25	If NRC staff finds no "need," "need to know," or likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
190	(Receipt +180) If NRC staff finds standing, need to know for SGI, and trustworthiness and reliability, deadline for NRC staff to file motion for Protective Order and draft Non-disclosure Affidavit (or to make a determination that the proposed recipient of SGI is not trustworthy or reliable). Note: Before the Office of Administration makes an adverse determination regarding access, the proposed recipient must be provided an opportunity to correct or explain information.
205	Deadline for petitioner to seek reversal of a final adverse NRC staff determination either before the presiding officer or another designated officer.
A	*If access granted:* Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A +3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI and/or SGI consistent with decision issuing the protective order.
A +28	Deadline for submission of contentions whose development depends upon access to SUNSI and/or SGI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.
A +53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI and/or SGI.
A +60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
B	Decision on contention admission.

[FR Doc. E9–2322 Filed 2–3–09; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collection for OMB Review; Comment Request; Survey of Nonparticipating Single Premium Group Annuity Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation ("PBGC") is requesting that the Office of Management and Budget ("OMB") extend approval, under the Paperwork Reduction Act, of a collection of information (OMB control number 1212–0030; expires March 31, 2009). This voluntary collection of information is a quarterly survey of insurance company rates for pricing annuity contracts. The survey is conducted by the American Council of Life Insurers for PBGC. This notice informs the public of PBGC's request and solicits public comment on the collection of information.

DATES: Comments should be submitted by March 6, 2009.

ADDRESSES: Comments should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Pension Benefit Guaranty Corporation, via electronic mail at

OIRA_DOCKET@omb.eop.gov or by fax to (202) 395–6974.

Copies of the collection of information may also be obtained without charge by writing to the Disclosure Division of the Office of the General Counsel of PBGC at the above address or by visiting the Disclosure Division or calling 202–326–4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.) The Disclosure Division will e-mail, fax, or mail the requested information to you, as you request.

FOR FURTHER INFORMATION CONTACT: Thomas H. Gabriel, Attorney, or Catherine B. Klion, Manager, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (For TTY/TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: PBGC's regulations prescribe actuarial valuation methods and assumptions (including interest rate assumptions) to be used in determining the actuarial present value of benefits under single-employer plans that terminate (29 CFR part 4044) and under multiemployer plans that undergo a mass withdrawal of contributing employers (29 CFR part 4281). Each month PBGC publishes the interest rates to be used under those regulations for plans terminating or undergoing mass withdrawal during the next month.

The interest rates are intended to reflect current conditions in the investment and annuity markets. To determine these interest rates, PBGC gathers pricing data from insurance companies that are providing annuity contracts to terminating pension plans through a quarterly ''Survey of Nonparticipating Single Premium Group Annuity Rates.'' The survey is distributed by the American Council of Life Insurers and provides PBGC with ''blind'' data (*i.e.*, is conducted in such a way that PBGC is unable to match responses with the companies that submitted them). The information from the survey is also used by PBGC in determining the interest rates it uses to value benefits payable to participants and beneficiaries in PBGC-trusteed plans for purposes of PBGC's financial statements.

The survey is directed at insurance companies that have volunteered to participate, most or all of which are members of the American Council of Life Insurers. The survey is conducted quarterly and will be sent to approximately 22 insurance companies. Based on experience under the current approval, PBGC estimates that 6 insurance companies will complete and return the survey. PBGC further estimates that the average annual burden of this collection of information is 26 hours and $138.

The collection of information has been approved by OMB under control number 1212–0030 through March 31, 2009. PBGC is requesting that OMB extend its approval for another three years. 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.

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

John H. Hanley,

Director, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation.

[FR Doc. E9–2468 Filed 2–3–09; 8:45 am]

BILLING CODE 7709–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Wednesday, February 4, 2009 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), (8), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Casey, as duty officer, voted to consider the items listed for the Closed Meeting in closed session, and determined that no earlier notice thereof was possible.

The subject matter of the Closed Meeting scheduled for Wednesday, February 4, 2009 will be:

Formal orders of investigation;
Institution and settlement of injunctive actions;
Institution and settlement of administrative proceedings of an enforcement nature;
Resolution of litigation claims;
A regulatory matter regarding a financial institution; and
Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: January 30, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–2333 Filed 2–3–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Global 1 Investment Holdings Corporation, Respondent; Order of Suspension of Trading

February 2, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Global 1 Investment Holdings Corporation (''Global'') because Global is delinquent in filing periodic reports with the Commission and because of questions regarding the accuracy and completeness of Global's representations to investors and prospective investors in Global's public filings with the Commission and Global's publicly-available press releases. Among other things, there are questions regarding the accuracy and completeness of Global's public assertions in its Form 10–QSB report purportedly for the quarter ended December 31, 2007, filed with the Commission on February 14, 2008, indicating by way of example that Global has created $500 million to be used as collateral in structured credit transactions and that Global has the current ability and expertise to develop and produce small feature films and videos for a direct to the consumer distribution model.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in Global's securities.

Therefore, *It Is Ordered,* pursuant to Section 12(k) of the Securities Exchange

Act of 1934, that trading in the above listed company is suspended for the period from 9:30 a.m. EST on February 2, 2009, through 11:59 p.m. EST on February 13, 2009.

By the Commission.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E9–2448 Filed 2–2–09; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59307; File No. SR–BX–2009–005]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing of Proposed Rule Change To Establish New Fees for Services Available to Members and Non-Members

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 14, 2009, NASDAQ OMX BX, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt fees applicable to members and non-members in connection with the resumption of its cash equities trading business. The text of the proposed rule change is available from the principal office of the Exchange and from the Commission, and is also available at *http://www.nasdaqtrader.com/Trader.aspx?id=BSEPendingRules*. The Exchange proposes to implement the proposed rule change as soon as practicable following Commission approval.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On August 29, 2008, the Exchange was acquired by The NASDAQ OMX Group, Inc. (''NASDAQ OMX''). At the time of this acquisition, the Exchange was not operating a venue for trading cash equities. Pursuant to SR–BSE–2008–48, the Exchange has adopted a new rulebook with rules governing membership, the regulatory obligations of members, listing, and equities trading.[3] The new rules, which are designated as the ''Equity Rules,'' are based to a substantial extent on the rules of The NASDAQ Stock Market LLC (the ''NASDAQ Exchange''). The Equity Rules leave in effect the Exchange's pre-existing rules (the ''Options Rules'') for the purpose of governing trading on the Exchange's Boston Options Exchange facility (''BOX''). In addition, in SR–BX–2009–004, which was immediately effective pursuant to Section 19(b)(3)(A) of the Act,[4] the Exchange adopted new fees applicable solely to its members.

In this filing, the Exchange is proposing new fees to be charged to members and non-members in connection with the resumption of its cash equities trading business. The fee schedules are structurally similar to those of the NASDAQ Exchange, but with the omission of many fees that are not pertinent to the Exchange's planned business and with several differences in the level of certain fees.

Market Data

The Exchange proposes to establish fees for its BX TotalView data product. Like NASDAQ TotalView, BX TotalView will provide all displayed quotes and orders in the market, with attribution to the relevant market participant, at every price level, as well as total displayed anonymous interest at every price level. In recognition of the start-up nature of the new market, the data feed will be provided free of charge to subscribers and distributors for the first year of operation.

After the initial free period, subscribers to BX TotalView will pay a monthly charge of $20; however, new subscribers receiving BX TotalView for the first time after the expiration of the one-year introductory period will be able to use the product free of charge for an individual 30-day trial period.[5] Distributors of BX TotalView will pay a $1,000 monthly fee to receive the data directly from the Exchange, since the Exchange incurs costs to support the connection to each direct distributor; indirect distributors (*i.e.*, those receiving data from a direct distributor) would not pay this charge.[6] Distributors will also pay a $500 monthly fee to distribute the data feed internally (*i.e.*, to employees) and a $1,250 monthly fee to distribute to external customers.[7]

All of the foregoing fees will be waived during the initial free period.

Upon approval of this filing, however, the Exchange will begin to assess a limited number of fees in connection with data provision. Specifically, extranet providers that connect to the Exchange to provide direct access connectivity to market data will be charged a monthly access fee of $750 for each technical configuration used to provide a connection to a recipient's site.[8] In addition, data distributors will pay an annual administrative fee of $500 for delayed distribution of data, and $1,000 for real-time distribution.[9]

The foregoing fee structure is similar to the structure for NASDAQ TotalView, but the overall level of fees will be lower than for NASDAQ TotalView. These fee levels reflect the start-up nature of the Exchange's new equities trading platform, and will help to promote competition among exchanges with respect to the quoting and trading services. Specifically, the Exchange believes that the fees it sets for BX TotalView will help to attract order flow to the Exchange. At inception, the Exchange will have zero market share and therefore must set its fees, including data fees, with a view to attracting order flow. Moreover, the alternatives that exist for market participants to determine market depth—such as other depth of book products that may be associated with markets with more liquidity, or order routing strategies designed to ascertain market depth—provide incentives for the Exchange to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 59154 (December 23, 2008), 73 FR 80468 (SR–BSE–2008–48).

[4] 15 U.S.C. 78s(b)(3)(A).

[5] *See* proposed Equity Rule 7023.

[6] *See* proposed Equity Rule 7019.

[7] *Id.*

[8] *See* proposed Equity Rule 7025.

[9] *See* proposed Equity Rule 7035. These annual administrative fees can be waived for colleges and universities receiving the data for research and educational purposes.

ensure that its fees for BX TotalView are set reasonably.

The fees are not unreasonably discriminatory, since the fees for subscribers are uniform for all subscribers, and the fees for distributors are uniform except with respect to reasonable distinctions between internal and external distribution and direct and indirect receipt of data. The fees are fair and reasonable in that they compare favorably to fees charged by other exchanges for comparable products.

Port Fees

In order to receive BX Total View, subscribers must establish connectivity to the Exchange through extranets, direct connection, and Internet-based virtual private networks. The Exchange proposes to charge fees for the ports required to establish these connections, just as it will charge for access ports used to enter orders into the market.[10] A port used for order entry cannot also be used to receive data; thus, a member seeking to enter orders and receive data would require at least two port pairs. Prior to approval of this filing, the Exchange will provide data ports free of charge. Thereafter, the Exchange will generally charge the same fees for data ports that it charges for order entry ports: $400 per month per port pair, plus an additional $200 per month for each Internet port that requires additional bandwidth due to the demands of the particular subscriber. In addition, subscribers wishing to obtain data will also have the option of obtaining a Multicast ITCH® port pair at a fee of $1000 per month.[11] The differences between these two options relate to speed and processes for verifying completeness of the data. The standard port pair option provides one copy of the data and uses procedures under which the system receiving the data communicates back to the Exchange to verify completeness of the information. Under the Multicast ITCH option, two copies of the data are provided without these verification processes, and consequently at a higher rate of speed. Because the recipient of the data receives two copies, it can, if it wishes, undertake its own verification by programming its systems to compare the two copies. The fees for data ports are identical to the comparable fees charged by the NASDAQ Exchange.

Testing

The Exchange proposes to establish fees for its testing facility, to be set at levels identical to the fees for the NASDAQ Exchange's testing facility.[12] In general, the Exchange will charge $285 per hour for an active connection during the facility's normal operating hours and $333 per hour for an active connection at other times. Because the fees are waived for testing of new, enhanced, or modified services and/or software offered by the Exchange, as well as for modifications initiated by the Exchange and for a 30-day period for new subscribers to existing services, the testing fees will not be charged until the later of (i) approval of this filing, or (ii) 30 days after the launch of the NASDAQ OMX BX Equities System. Thereafter, as provided in the rule, the fees will be waived for a 30-day period for each new market participant.

Other Fees

Other fee rules relate to special data requests [13] and partial month charges [14] and are comparable to corresponding NASDAQ Exchange rules.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[15] in general and with Section 6(b)(4) of the Act,[16] as stated above, in that it provides an equitable allocation of reasonable dues, fees, and other charges among its members and other persons using the facilities. The Exchange makes all services and products subject to these fees available on a non-discriminatory basis to similarly situated recipients. All fees are structured in manner comparable to corresponding fees of the NASDAQ Exchange already in effect, and are set at levels equal to or lower than the levels of the comparable NASDAQ Exchange fees. The proposed fees for BX TotalView are equitably allocated since the fees for subscribers are uniform for all subscribers, and the fees for distributors are uniform except with respect to reasonable distinctions between internal and external distribution and direct and indirect receipt of data. The fees are fair and reasonable in that they compare favorably to fees charged by other exchanges for comparable products. The proposed testing fees are uniformly applied to all testing facility users, except with respect to reasonable distinctions based on time of use and with respect to testing for new services.

B. Self-Regulatory Organization's Statement on Burden on Competition

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, as amended. Despite its long history, the Exchange will effectively be entering the competitive markets for equities trading as a start-up venture. Accordingly, its fees must be set at a level that will promote competition in these markets, or potential users of its services will simply continue to obtain services from the Exchange's multiple competitors. Notably, with regard to market data, the Exchange must set fees for market data and transaction executions that promote the Exchange as a trading venue. If its fees are set at inappropriately high levels, market participants will seek to avoid using the Exchange, and the Exchange' market data will have little value to market participants. In light of the start-up nature of the Exchange's operations, the products and services introduced by the Exchange will promote competition if they succeed in providing market participants with viable and cost-effective alternatives to existing competitors. Conversely, they will have no effect on competition if they fail to provide such alternatives.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

[10] *See* SR–BX–2009–004 (establishing Equity Rule 7015 to charge fees for ports used by members to enter orders).

[11] Equity Rule 7015.

[12] *See* proposed Equity Rule 7030(d).

[13] *See* proposed Equity Rule 7030(b). This provision allows the Exchange to recoup costs associated with responding to *ad hoc* requests for market data, such as requests that may be made by news reporters or academic researchers.

[14] *See* proposed Equity Rule 7031. This provision provides that market data distributors may elect to be billed on a prorated basis during the month of initiation or termination of service.

[15] 15 U.S.C. 78f.

[16] 15 U.S.C. 78f(b)(4).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–BX–2009–005 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–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 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–BX–2009–005 and should be submitted on or before February 25, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–2251 Filed 2–3–09; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59311; File No. SR–BX–2009–007]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Effective Date of the Rule Governing Exchange's Directed Order Process on the Boston Options Exchange

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 26, 2009, NASDAQ OMX BX, Inc. (the ''Exchange'') 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 by the Exchange. The Exchange has designated the proposed rule change as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal 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 extend the effective date of the amended rule governing the Exchange's Directed Order Process on the Boston Options Exchange (''BOX'') from January 31, 2009 to May 29, 2009. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://nasdaqtrader.com/Trader.aspx?id=Boston_Stock_Exchange*.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Propose Rule Change

1. Purpose

On March 14, 2006, the Exchange proposed an amendment to the BOX Rules governing the Directed Order[5] process on BOX.[6] The Rules were amended to clearly state that the BOX Trading Host identifies to an Executing Participant (''EP'') the identity of the firm entering a Directed Order. The amended rule was to be effective until June 30, 2006 (''Pilot Program''), while the Commission considered a corresponding Exchange proposal[7] to amend its rules to permit EPs to choose the firms from whom they will accept Directed Orders, while providing complete anonymity of the firm entering a Directed Order.

On June 20, 2006, the Exchange proposed extending the effective date of the rule governing its Directed Order process on BOX from June 30, 2006 to September 30, 2006,[8] while the Commission continued to consider the corresponding Exchange proposal.

On September 11, 2006; January 16, 2007; July 2, 2007; and January 18, 2008 the Exchange proposed extending the effective date of the amended rule governing the Directed Order process on BOX from September 30, 2006 until January 31, 2007;[9] from January 31,

[5] Capitalized terms not otherwise defined herein shall have the meanings prescribed within the BOX Rules.

[6] *See* Securities Exchange Act Release No. 53516 (March 20, 2006), 71 FR 15232 (March 27, 2006) (SR–BSE–2006–14).

[7] *See* Securities Exchange Act Release No. 53357 (February 23, 2006), 71 FR 10730 (March 2, 2006) (SR–BSE–2005–52).

[8] *See* Securities Exchange Act Release No. 54082 (June 30, 2006), 71 FR 38913 (July 10, 2006) (SR–BSE–2006–29).

[9] *See* Securities Exchange Act Release No. 54469 (September 19, 2006), 71 FR 56201 (September 26, 2006) (SR–BSE–2006–38).

2007 until July 31, 2007;[10] from July 31, 2007 until January 31, 2008;[11] and from January 31, 2008 until January 31, 2009,[12] respectively, while the Commission considered the corresponding Exchange proposal to amend the BOX Rules to permit EPs to choose the firms from whom they will accept Directed Orders, while providing complete anonymity of the firm entering a Directed Order.

This filing from the Exchange again proposes extending the effective date of the amended rule governing its Directed Order process on BOX, from January 31, 2009 to May 29, 2009.[13] In the event the Commission reaches a decision with respect to the corresponding Exchange proposal to amend the BOX Rules before May 29, 2009, the amended rule governing the Directed Order process on the BOX will cease to be effective at the time of that decision.

2. Statutory Basis

The amended rule is designed to clarify the information contained in a Directed Order. This proposed rule filing seeks to extend the amended rule's effectiveness from January 31, 2009 to May 29, 2009. This extension will afford the Commission the necessary time to consider the Exchange's corresponding proposal to amend the BOX rule to permit EPs to choose the firms from whom they will accept Directed Orders while providing complete anonymity of the firm entering a Directed Order. Accordingly, the Exchange believes that this proposal is consistent with the requirements of Section 6(b) of the Act,[14] in general, and Section 6(b)(5) of the Act,[15] in particular, in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism for a free and open market and a national market system and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

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 neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, 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)[16] of the Act and Rule 19b–4(f)(6) thereunder.[17] As required under Rule 19b–4(f)(6)(iii),[18] the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of the filing of the proposed rule change.

A proposed rule change filed under Rule 19b–4(f)(6)[19] normally may not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii)[20] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay, as specified in Rule 19b–4(f)(6)(iii),[21] which would make the rule change effective and operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would continue to conform the BOX rules to BOX's current practice and clarify that Directed Orders on BOX are not anonymous without interruption.[22] Accordingly, the Commission designates the proposed rule change operative upon filing with the Commission.

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–BX–2009–007 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–BX–2009–007. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days

[10] *See* Securities Exchange Act Release No. 55139 (January 19, 2007), 72 FR 3448 (January 25, 2007) (SR–BSE–2007–01).

[11] *See* Securities Exchange Act Release No. 56014 (July 5, 2007), 72 FR 38104 (July 12, 2007) (SR–BSE–2007–31).

[12] *See* Securities Exchange Act Release No. 57195 (January 24, 2008), 73 FR 5610 (January 30, 2008) (SR–BSE–2008–04).

[13] In the event that the issue of anonymity in the Directed Order process is not resolved by May 29, 2009 the Exchange will consider whether to submit another filing under Rule 19b–4(f)(6) extending this rule and system process.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 240.19b–4(f)(6)(iii).

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] *Id.*

[22] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2009–007 and should be submitted on or before February 25, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–2297 Filed 2–3–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59309; File No. SR–NYSE–2009–04]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change To Establish Fees for NYSE Trades

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 27, 2009, the New York Stock Exchange LLC (''NYSE'' 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

The Exchange proposes to introduce its NYSE Trades service and to establish fees for that service. NYSE Trades is a new NYSE-only market data service that allows a vendor to redistribute on a real-time basis the same last sale information that NYSE reports to the Consolidated Tape Association (''CTA'') for inclusion in CTA's consolidated data stream and certain other related data elements (''NYSE 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 Trades, a new service pursuant to which it will allow vendors, broker-dealers and others (''NYSE-Only Vendors'') to make available NYSE Last Sale Information on a real-time basis.[3] NYSE Last Sale Information would include last sale information for all securities that are traded on the Exchange.

The Exchange will make NYSE Last Sale Information available through its new NYSE 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 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 NYSE OpenBook® and NYSE Info Tools®.

Contemporaneously with the 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 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 the 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 Last Sale Information that the Exchange will make available, the Exchange proposes to charge $1500 per month. For that fee, the datafeed recipient will receive access to each of the NYSE Last Sale Information datafeeds that NYSE makes available. Currently, the Exchange trades only Network A securities. The Exchange does not propose to impose any program classification charges for the use of NYSE Trades.

ii. *Device Fee.* The Exchange proposes to charge each subscriber to an NYSE-Only Vendor's NYSE Trades service $15 per month per display device for the receipt and use of NYSE Last Sale Information. The Exchange does not currently perceive a demand for a nonprofessional subscriber fee for NYSE Trades, but will monitor customer response.

In a proposed rule change that the Exchange anticipates filing contemporaneously with the proposed rule change (the ''Unit-of-Count Filing''), the Exchange will propose to revise the unit of count that determines the device fees payable by NYSE OpenBook® data recipients. Upon Commission approval of that filing, the Exchange proposes to incorporate the unit of count set forth in the Unit-of-Count Filing into the NYSE Trades service.

Under the Unit-of-Count Filing, the Exchange would no longer define the Vendor-subscriber relationship based on the manner in which a data feed recipient or subscriber receives data (i.e., through controlled displays or through data feeds). Instead, the Exchange would adopt billing criteria that are more objective. Those criteria would newly define ''Vendors,'' ''Subscribers,'' ''Subscriber Entitlements'' and ''Subscriber Entitlement Controls'' as the basis for setting device fees. The Exchange believes that these changes more closely align with current data consumption and will reduce costs for the Exchange's customers.

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 last sale prices in the Exchange's NYSE 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 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 contributes to the CTA consolidated datafeed and

[23] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange notes that it will make NYSE Trades available to vendors no earlier than it makes its last sale information available to the processor under the CTA Plan.

[4] *See* Release No. 34–57966; 73 **Federal Register** 35182 (June 20, 2008); File No. SR–NYSE–2007–04.

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 Trades datafeed for the CTA datafeed for display purposes.

Rather, the Exchange developed NYSE Trades primarily at the request of traders who are very latency sensitive. The latency difference between accessing last sales through the NYSE 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 Trades to power certain trading algorithms or smart order routers.

Regardless of an investor's reasons for subscribing to the NYSE Trades service, the access fee applies equally to all NYSE-Only Vendors that receive the NYSE Trades datafeed and the device fee applies equally to all subscribers that receive an NYSE-Only Vendor's NYSE 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 fee 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 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 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 Trades would compete with a number of alternative products. NYSE 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 Arca. In addition, investors can receive NYSE trade reports through the consolidated CTA data stream or they can receive NYSE trade reports for free by means of access to the Exchange's NYSE Realtime Reference Prices service.

In setting the level of the proposed NYSE 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 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-Only Vendors to distribute NYSE 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 last sale prices through NYSE Realtime Reference Prices.

(6) The fact that the proposed fees provide an alternative to existing Network A fees under the CTA Plan, an alternative 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 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 Trades and NYSE's compelling need to attract order flow impose significant competitive pressure on NYSE to act equitably, fairly, and reasonably in setting NYSE Trades fees. The proposed NYSE Trades access and device fees are, in part, responses to that pressure. The Exchange believes that the proposed NYSE 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-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

[5] *See* Release No. 34–59039 (December 2, 2008); File No. SR–NYSEArca–2006–21.

[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.

Form will authorize the NYSE-Only Vendor to provide the NYSE 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 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 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 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 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 fess 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 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 the proposed rules change with those entities that the Exchange believes would be the most likely to take advantage of the proposed NYSE Last Sale Information service by becoming NYSE-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 the 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–NYSE–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–NYSE–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 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–NYSE–2009–04 and should be submitted on or before February 25, 2009.

[10] *See* Release Nos. 34–28407 (September 10, 1990), and 34–49185 (February 4, 2004).

[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).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–2252 Filed 2–3–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59313; File No. SR–NYSE–2009–03]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change To Adopt Listing Fees for Securities Listed Under Section 703.21 and 703.22 and Traded on NYSE Bonds

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 9, 2009, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposal from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to include a new section (proposed Section 902.10) in its Listed Company Manual (the ''Manual'') establishing fees payable in connection with the listing of securities traded on NYSE Bonds that are listed under Section 703.21 (Equity-Linked Debt Securities) and Section 703.22 (Equity Index-Linked Securities, Commodity-Linked Securities and Currency-Linked Securities). The filing also amends Section 902.09 to remove references to the securities that will be subject to the fees under proposed Section 902.10.

The text of the proposed rule change is available on the Exchange's Web site (*http://www.nyse.com*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to include a new section (proposed Section 902.10) in the Manual establishing fees payable in connection with the listing of securities traded on NYSE Bonds that are listed under Section 703.21 and Section 703.22. The filing also amends Section 902.09 to remove references to the securities that will be subject to the fees under proposed Section 902.10.

Securities listed under Sections 703.21 and 703.22 and traded on NYSE Bonds are currently subject to the fees set forth in Section 902.09. Section 902.09 establishes a minimum initial listing fee of $5,000 (for issuances of one million securities or fewer) and a maximum initial listing fee (for issuances in excess of 15 million securities) of $45,000. The minimum annual listing fee under Section 902.09 is $10,000 (for issues with 6 million securities outstanding or fewer) and the maximum annual listing fee is $55,000 (for issues with more than 50 million securities outstanding). Under proposed Section 902.10, the initial listing fee for securities traded on NYSE Bonds and listed under Section 703.21 and 703.22 will be a flat fee of $5,000 regardless of the size of the issuance and the annual fee will be a flat fee of $5,000 regardless of the number of securities outstanding.

The Exchange notes that no issuer will pay higher initial listing fees as a result of the adoption of Section 902.10, as the proposed flat initial listing fee of $5,000 is the same as the current minimum charged under Section 902.09, and most issuers will pay less than would currently be the case under Section 902.09. All issuers will be subject to lower annual fees, as the proposed flat rate of $5,000 is less than the current minimum of $10,000 charged under Section 902.09. In order to be listed on NYSE Bonds, a security must have a $1,000 denomination. Typically, index-linked securities and equity-linked securities with $1,000 denominations are marketed to institutional investors rather than retail investors and, because these purchasers are less concerned that securities they invest in should have an exchange listing, these securities are generally not listed on a national securities exchange. Consequently, the Exchange is adopting a low level of listing fees for these securities because it believes doing so will make an exchange listing attractive in connection with offerings where listing is not crucial to a successful marketing of the securities. The Exchange notes that securities listed on NYSE Bonds do not have the benefit of a Designated Market Maker and, as such, the Exchange incurs lower regulatory and administrative costs in connection with such securities than would be the case with floor-traded securities. As such, the proposed fees are set at a level that reflects the lower costs incurred by the Exchange in connection with the trading of securities on NYSE Bonds than on the equities trading floor, while remaining attractive to issuers for whom an exchange listing is not crucial.

The Exchange recognizes that Section 902.09 was amended quite recently to add securities listed under Sections 703.21 and 703.22 and traded on NYSE Bonds to those subject to the fees set forth in that section.[3] However, since the adoption of that amendment and as of the date of submission of this filing, the Exchange has not listed any securities under Sections 703.21 and 703.22 and traded on NYSE Bonds and therefore no issuers have been charged those higher fees. For the reasons stated above, the Exchange has determined instead to apply the new fees established in this filing.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(4)[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. The Exchange believes that the proposed new fees for securities traded on NYSE Bonds and listed under Sections 703.21 and 703.22 do not render the allocation of its listing fees inequitable in particular because no issuer will pay

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 58599 (September 19, 2008), 73 FR 55883 (September 26, 2008) (SR–NYSE–2008–56).

[4] 15 U.S.C. 78f(b)(4).

higher fees as a result of the adoption of Section 902.10 and most issuers will pay less than would currently be the case.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change would 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

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

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–NYSE–2009–03 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–NYSE–2009–03. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing 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–NYSE–2009–03 and should be submitted on or before February 25, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–2253 Filed 2–3–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59304; File No. SR–NYSEALTR–2009–02]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by NYSE Alternext US LLC To Revise Its Listing Fees

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 8, 2009, NYSE Alternext US LLC (''NYSE Alternext'' or the ''Exchange'') filed with the Securities and Exchange Commission the proposed rule changes 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 changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to revise its listing fees. The text of the proposed rule change is available on the Exchange's Web site at (*http://www.nyse.com*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NYSE Alternext 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

Following the October 2008 acquisition by NYSE Euronext of NYSE Alternext's predecessor entity, the American Stock Exchange, NYSE Euronext management reexamined NYSE Alternext's listing fees in light of the cost of providing services to listed companies on an ongoing basis and the fees charged by competitor exchanges. In particular, the Exchange notes that it is now providing listed companies with a suite of services similar to services provided to listed companies by the New York Stock Exchange (''NYSE''), which is also a subsidiary of NYSE Euronext. These services, which the Exchange has either already begun providing or will roll out in early 2009, include: A daily summary of trading activity in a listed company's stock delivered at the end of each trading day to the company's executives (''market focus reports''); a summary of relevant market information delivered each morning with analysis of what may happen in the equity markets that day; access to NYSENet, which is a web-based system that provides listed companies with easy access to detailed trading data updated intraday on a real-

[5] 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.

time basis; and *eGovDirect.com,* a secure web-based system enabling companies to submit certifications to the Exchange electronically. To recoup the cost of providing these services and, more generally, in response to increased costs in its continuing service and regulatory programs, the Exchange proposes to make a number of changes to its listing fees.

The Exchange proposes to amend its initial listing fees for common stock or common stock equivalents. The initial listing fees set forth in Section 140 of the Exchange's Company Guide for issuances of (i) less than five million shares will be increased from $40,000 to $50,000, (ii) five million to 10 million shares will be increased from $50,000 to $55,000, (iii) 10,000,001 shares to 15 million shares will be increased from $55,000 to $60,000 and (iv) in excess of 15 million shares will be increased from $65,000 to $70,000. The Exchange currently charges a nonrefundable $5,000 application fee in connection with a company's initial listing on the Exchange. The Exchange proposes to eliminate this application fee [4] and notes that, as a consequence, any company paying the increased initial listing fee in connection with the listing of five million shares or more at the time of first listing on the Exchange will not pay a higher aggregate fee to the Exchange as the initial listing fee increase of $5,000 is offset by the elimination of the application fee.[5] The Exchange also notes that the proposed minimum initial listing fee of $50,000 for up to five million shares is the same as the Nasdaq Capital Market minimum fee for issuances of up to 15 million shares, while the proposed maximum fee of $70,000 for more than 15 million shares is less than the $75,000 maximum initial listing fee charged by Nasdaq Capital Market for listing in excess of 15 million shares.[6] As such, the Exchange believes that the proposed amended initial listing fees are competitive with those of other markets. In addition, the Exchange believes that it is appropriate to charge companies different amounts based on the number of shares listed, as the Exchange provides different levels of services to companies based on their size. For example, only larger companies are provided with the market focus reports described above.

The Exchange notes that it is extremely difficult to establish listing fee schedules on the basis of market capitalization as stock prices are inherently volatile. As a consequence, all of the major national securities exchanges use the number of shares outstanding as a proxy for a company's size in establishing fee schedules, as, much of the time, the number of shares a company has outstanding provides a reasonable guide as to its size.

Section 140 provides for a $5,000 application processing fee payable in connection with the initial listing of a class of bonds of an issuer that does not have another class of securities listed on the Exchange. The Exchange proposes to eliminate this fee.

Section 140 currently provides that, in the case of non-U.S. issuers listed on foreign stock exchanges, the fee, including the one-time, non-refundable application-processing fee of $5,000, is $40,000. The Exchange proposes to conform the initial listing fees charged to non-U.S. companies to those charged to domestic companies. The Exchange believes it is appropriate to charge these non-U.S. companies as much as other companies as they receive the same level of service from the Exchange and therefore are as costly to service on an ongoing basis as any other company of similar size. Accordingly, the Exchange believes that by charging non-U.S. companies the same fees as domestic companies it will be providing for a more equitable allocation of reasonable dues, fees and other charges among its members, issuers and other persons using its facilities.

Section 141 of the Company Guide currently provides that issuers must pay a minimum annual fee of $27,500 if the issuer has 50 million shares or less outstanding. If the issuer has from 50,000,001 to 75 million shares outstanding, the current annual fee is $32,500. If the issuer has in excess of 75 million shares outstanding, the current annual fee is $34,000. The Exchange proposes to retain the minimum annual fee of $27,500 for issuers with 50 million shares or less outstanding. Therefore, issuers with 50 million shares or less outstanding will not be subject to any annual fee increase for 2009. With effect from January 1, 2010, the Exchange proposes to increase the annual fee for issuers that have between 50,000,001 and 75 million shares outstanding from $32,500 to $36,500 and for issuers with in excess of 75 million shares outstanding the annual fee will be raised from $34,000 to $40,000. As of the date of approval of this rule filing, issuers will be required to pay a supplemental annual fee equal to the difference between the amount they would pay in 2009 based on the current annual fee rates and the amount they would be required to pay if the 2010 annual fee rates were in place on January 1, 2009. As with initial listing fees, the Exchange notes that larger companies receive more services from the Exchange and it is therefore justifiable to charge them higher annual fees to recoup the related expenses. For example, only larger companies are provided with the market focus reports described above.

Sections 140 and 146 of the Company Guide contain provisions that grant the Board of Directors of the Exchange the discretion to defer, waive or rebate all or any part of the initial listing fee payable in connection with any listing of securities. Section 142(g) grants the Board of Directors the same discretion to defer, waive or rebate all or any part of the fees payable for the listing of additional shares. The Exchange proposes to eliminate these provisions in Sections 140 and 142(g) and to eliminate Section 146 in its entirety. The Exchange has not exercised this discretion recently and has concluded that it is no longer relevant to its strategy going forward.

The Exchange proposes to amend Section 142 of the Company Guide by (i) increasing from $60,000 to $65,000 the maximum fee per issuer for listing additional shares in a calendar year, which is the maximum imposed by Nasdaq Capital Market and Nasdaq Global Market, and (ii) increasing from $2,000 to $2,500 the fee charged in connection with a company changing its name or ticker symbol, which is also the fee charged by Nasdaq Capital Market and Nasdaq Global Market for changes of this nature. The Exchange also proposes to amend Section 142 to adopt a fee of $7,500 for technical original listings (''Technical Original Listings'') and reverse stock splits. The Exchange will apply the proposed $7,500 application fee for a Technical Original Listing if the change in the company's status is technical in nature and the

[4] The Exchange proposes to make conforming changes to Section 144 of the Company guide to eliminate references to the application processing fee.

[5] The Exchange notes that companies listing less than five million shares at the time of initial listing will be charged an initial listing fee that is $10,000 higher than is currently the case, giving rise to a net fee increase of $5,000 after taking into account the elimination of the application processing fee. In addition, the Exchange notes that companies that have previously listed a class of stock or warrants on the Exchange that are listing an additional class of securities would not have been required to pay the application processing fee in connection with the listing of the second class.

[6] The initial listing fee for issuers listing less than five million shares is increasing by $10,000, while the fees for the other tiers are increasing by just $5,000. The Exchange believes that this larger increase is necessary to cover the costs of regulatory review and use of operational resources which are essentially fixed in relation to any new listing regardless of the company's size.

shareholders of the original company receive or retain a share-for-share interest in the new company without any change in their equity position or rights. For example, a change in a company's state of incorporation or a reincorporation or formation of a holding company that replaces a listed company would be considered a Technical Original Listing.[7] The $7,500 application fee will also apply to a reverse stock split. The Technical Original Listing fee will replace the current $5,000 fee for ''substitution listings'' set forth in Section 142(d). The Technical Original Listing fee is intended to apply only to those events that would have previously been subject to the substitution listing fee. The Exchange has changed the fee's name and provided more detail as to when it is applicable in order to better inform companies as to when it is applicable and to conform to the comparable rule of the NYSE.[8] Nasdaq Capital Market and Nasdaq Global Market have a fee set at the same $7,500 level for ''substitution listing events,'' which is applicable in the same circumstances as the Technical Original Listing fee.[9] The Exchange believes that the increases in the various fees charged under Section 142 referenced in this paragraph are justified by the increasing cost of providing services to companies and in particular the cost of the Exchange's utilization of staff operational resources in making changes required by the events giving rise to the applicable fees. The Exchange also notes that the increased fees are set at the same level as those of Nasdaq Capital Market and Nasdaq Global Market and are therefore reasonable in light of the charges imposed by competitor exchanges. The Exchange is amending the language of Section 142 to state that the fees in that section apply to non-U.S. companies. As the fees in Section 142 have always applied to non-U.S. companies, this amendment is simply a clarification and not a substantive change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6[10] of the Act in general and Section 6(b)(4) of the Act[11] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. The Exchange believes that the proposal does not constitute an inequitable allocation of dues, fees and other charges as the proposed fees are set at levels that are competitive with those already in place at Nasdaq Capital Market and Nasdaq Global Market and, to the extent different levels of fees are charged to companies of different sizes, the differential fees are reasonable in light of the different levels of service devoted to companies based on their size. Accordingly, the Exchange believes that the proposal provides for an equitable allocation of reasonable dues, fees and other charges among its members, issuers and other persons using its facilities.

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 purpose 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 neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

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–NYSEALTR–2009–02 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–NYSEALTR–2009–02. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSEALTR–2009–02 and should be submitted on or before February 25, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–2250 Filed 2–3–09; 8:45 am]

BILLING CODE 8011–01–P

[7] Minor technical amendments are being made to Rule 142(e) to reflect the fact that reincorporations will be explicitly included in the categories of events subject to the proposed Technical Original Listing fee.

[8] *See* Section 902.03 of the NYSE Listed Company Manual.

[9] *See* Nasdaq Marketplace Rules 4510(f) (for the Nasdaq Global Market fee) and 4520(e) (for the Nasdaq Capital Market fee).

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(4).

[12] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

National Small Business Development Center Advisory Board

AGENCY: U.S. Small Business Administration (SBA).

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 Small Business Development Center (SBDC) Advisory Board.

DATES: The meeting will be held on Tuesday, February 17, 2009 at 1 p.m. EST.

ADDRESSES: This meeting will be held via conference call.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) of the Federal Advisory Committee Act (5 U.S.C. Appendix 2), SBA announces the meeting of the National SBDC Advisory Board. This Board provides advice and counsel to the SBA Administrator and Associate Administrator for Small Business Development Centers.

The purpose of this meeting is to discuss following issues pertaining to the SBDC Advisory Board.:

—SBA Update from AA/OSBDC.
—ASBDC Spring Conference in March.
—Update on travel and hotel information.
—Member Roundtable.

FOR FUTHER INFORMATION CONTACT: The meeting is open to the public however advance notice of attendance is requested. Anyone wishing to be a listening participant must contact Alanna Falcone by Friday, February 13, 2009, by fax or e-mail in order to be placed on the agenda. Alanna Falcone, Program Analyst, 409 Third Street, SW., Washington, DC 20416, Phone, 202–619–1612, Fax 202–481–0134, e-mail, *alanna.falcone@sba.gov.*

Additionally, if you need accommodations because of a disability or require additional information, please contact Alanna Falcone at the information above.

Bridget E. Bean,

Acting Committee Management Officer.

[FR Doc. E9–2307 Filed 2–3–09; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2009–0007]

Maximum Dollar Limit in the Fee Agreement Process

AGENCY: Social Security Administration (SSA).

ACTION: Notice.

SUMMARY: We are increasing the maximum dollar amount limit for fee agreements approved under sections 206(a)(2)(A) and 1631(d)(2)(A) of the Social Security Act to $6,000. Effective June 22, 2009, decision-makers may approve fee agreements up to the new limit provided that the fee agreement otherwise meets the statutory conditions of the agreement process.

FOR FURTHER INFORMATION CONTACT: Marg Handel, Office of Income Security Programs, phone (410) 965–4639, e-mail: *marg.handel@ssa.gov.*

SUPPLEMENTARY INFORMATION: The Social Security Act (Act) provides a streamlined process for a representative to obtain approval of the fee he or she wishes to charge for representing a claimant before the agency. *See,* §§ 206(a)(2)(A) and 1631(d)(2)(A) of the Act, as amended by the Omnibus Budget Reconciliation Act (OBRA) of 1990, Public Law No. 101–508, § 5106. To use that process, the representative and the claimant must agree, in writing, to a fee that does not exceed the lesser of 25% of past due benefits or a prescribed dollar amount. OBRA of 1990 set the initial fee amount at $4,000 and gave the Commissioner the authority to increase it periodically, provided that the cumulative rate of increase did not at any time exceed the rate of increase in primary insurance amounts since January 1, 1991. The law further provided that notice of any increased amount shall be published in the **Federal Register**. On January 17, 2002, we published a notice raising the maximum fee to $5,300. With this notice, we announce that the maximum dollar amount for fee agreements will increase to $6,000. This increase does not exceed the rate of increase provided in OBRA of 1990. We believe this increase will adequately compensate representatives for their services while ensuring that claimants are protected from excessive fees. A decision-maker may approve fees up to the new amount effective June 22, 2009. This effective date will ensure adequate time to provide training and guidance to our employees and to make necessary changes in our information technology infrastructure.

Dated: January 29, 2009.

Michael J. Astrue,

Commissioner of Social Security.

[FR Doc. E9–2332 Filed 2–3–09; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 6508]

Culturally Significant Objects Imported for Exhibition Determinations: ''Brucke: The Birth of Expressionism, 1905–1913''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects in the exhibition: ''Brucke: The Birth of Expressionism, 1905–1913,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Neue Galerie, New York, NY, from on or about February 26, 2009, until on or about June 29, 2009, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–453–8050). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: January 26, 2009.

C. Miller Crouch,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E9–2325 Filed 2–3–09; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway Project in California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by the FHWA and Other Federal Agencies.

SUMMARY: This notice announces actions taken by the California Department of Transportation (Caltrans) pursuant to its assigned responsibilities under 23 U.S.C. 327 that are final within the meaning of 23 U.S.C. 139(l)(1). These actions relate to a proposed highway project, the Ventura/Santa Barbara U.S.101 HOV Project between Mobil Pier Undercrossing in Ventura County and Casitas Pass Road in Santa Barbara County, State of California. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before August 3, 2009. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Carlos Montez, Caltrans District 7, Division of Environmental Planning, 100 S. Main Street, Los Angeles, CA 90012, during normal business hours from 9 a.m. to 5 p.m. telephone (213) 897–9116, e-mail *Carlos_Montez@dot.ca.gov*.

SUPPLEMENTARY INFORMATION: Notice is hereby given that Caltrans, pursuant to its assigned responsibilities under U.S.C. 327, and certain other Federal agencies have taken final agency actions subject to 23 U.S.C. 139(l)(1) by approving the Ventura/Santa Barbara U.S.101 HOV Project in the State of California. When completed, the project will widen the U.S. 101 from four lanes to six lanes three northbound and three southbound by constructing an HOV lane in the existing median between Mobil Pier Undercrossing in Ventura County and Casitas Pass Road in Santa Barbara County. The purpose of the project is to relieve congestion, improve operations, safety and pedestrian and bicycle access. The project length is 6 miles. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Initial Study with Mitigated Negative Declaration/Environmental Assessment for the project, approved on December 12, 2008 and the Finding of No Significant Impact (FONSI) issued on December 12, 2008, and in other documents in the project records. The Initial Study with Mitigated Negative Declaration/Environmental Assessment, FONSI, and other project records are available by contacting the California Department of Transportation at the address provided above. The FONSI can be viewed and downloaded from the project Web site at *http://www.dot.ca.gov/dist07/resources/envdocs/*.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128].

2. *Air:* Clean Air Act [42 U.S.C. 7401–7671(q)].

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303].

4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)]; Migratory Bird Treaty Act [16 U.S.C. 703–712].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) et seq.].

6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

7. *Wetlands and Water Resources:* Clean Water Act (Section 404, Section 401, Section 319) [33 U.S.C. 1251–1377]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)–300(j)(6)].

8. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(1)(1).

Issued on: January 29, 2009.

Cindy Vigue,

Director, State Programs.

[FR Doc. E9–2314 Filed 2–3–09; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on the U.S. Highway 12 in Sauk County, WI

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by FHWA.

SUMMARY: This notice announces actions taken by the FHWA that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to the improvements on U.S. Highway 12 from I–90/94 to Terrytown Road in Sauk County, Wisconsin. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before August 3, 2009. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Mr. Johnny Gerbitz, Federal Highway Administration, 525 Junction Road Suite 8000, Madison, Wisconsin 53717; telephone: (608) 829–7511, e-mail: *Johnny.Gerbitz@fhwa.dot.gov*. The FHWA Wisconsin Division's normal office hours are 7 a.m. to 4 p.m. (central time). For the Wisconsin Department of Transportation: Mr. Jim Rohe, Wisconsin Department of Transportation, 3550 Mormon Coulee Road, La Crosse, Wisconsin 54601; *telephone:* 608–785–9038, e-mail: *james.rohe@dot.state.wi.us*.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FHWA has taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the following highway project in the State of Wisconsin: U.S. 12 in Sauk County, WI, from I–90/94 to Terrytown Road in Baraboo, WI. Due to design changes affecting property outside of the original footprint specified in the FEIS (FHWA–WI–EIS–96–02–F) and ROD (approved February 10, 2004), additional analysis of the area impacted by the design changes was conducted. A Revised Record of Decision (ROD) was issued on October 29, 2008 and approves the design changes and updates the findings for the project. The actions taken by FHWA, and the laws under which such actions

were taken, are described in the Final Environmental Impact Statement for the project, and in other documents in the FHWA or WisDOT project records. The FEIS, Revised ROD, and other project records are available by contacting FHWA or WisDOT at the addresses provided above. The FHWA FEIS and Revised ROD can also be viewed at the Wisconsin DOT's La Crosse office at the address noted above. This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act (FAHA) [23 U.S.C. 109 and 23 U.S.C. 128].

2. *Air:* Clean Air Act [42 U.S.C. 7401–7671(q)].

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [23 U.S.C. 138 and 49 U.S.C. 303] and Section 6(f) of the Land and Water Conservation Act as amended [16 U.S.C. 4601].

4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and section 1536]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–470(ll)]; Archeological and Historic Preservation Act [16 U.S.C. 469–469(c)]; Native American Grave Protection and Repatriation Act [25 U.S.C. 3001–3013].

6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; Farmland Protection Policy Act [7 U.S.C. 4201–4209].

7. *Executive Orders:* E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Population; E.O. 13007, Indian Sacred Sites.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Issued on: January 29, 2009.

Allen Radliff,

Division Administrator, Wisconsin Division.

[FR Doc. E9–2317 Filed 2–3–09; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

BNSF Railway Company

(Waiver Petition Docket Number FRA–2008–0157)

The BNSF Railway Company (BNSF) seeks a waiver of compliance with the Locomotive Safety Standards, 49 CFR 229.23 (requiring a periodic inspection at least every 92 days) and 229.25 (requiring specific tests at every periodic inspection) for BNSF General Electric *Evolution* series and Electro-Motive Diesel *ACe* series locomotives.

BNSF states in their request that each of the subject locomotives are equipped with new self-diagnostic technology and advanced computer control, and that the locomotives were designed by the manufacturer to be maintained at a 6 month interval. BNSF further indicates that if the waiver is granted, the required 92 day periodic inspection will be performed at 184 day intervals on the subject locomotives, and that qualified mechanical forces will perform at least one of the required daily inspections every 31 days. FRA non-complying conditions discovered on locomotives en-route or during any daily inspection will be moved to a mechanical facility capable of making required repairs.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.,* Waiver Petition Docket Number FRA–2008–0157) and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Issued in Washington, DC on January 29, 2009.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E9–2329 Filed 2–3–09; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance from certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Union Pacific Railroad Company

(Docket Number FRA–2008–0166)

The Union Pacific Railroad Company (UP) seeks a waiver of compliance from certain provisions of 49 CFR part 218, *Railroad Operating Practices*. Specifically, UP is requesting a waiver of Blue Signal Requirements as prescribed in 49 CFR 218.25 *Workers on a main track*, in Kansas City, KS and Kansas City, MO. These tracks are in the middle of the Kansas City facilities and are used for functions normally performed on yard tracks. Trains passing through the Kansas City Terminal stop for fuel, locomotive inspection, or adding or removing power from the train. To perform this work on the main track, UP must provide blue signal protection under 49 CFR 218.25. This request is for the following track locations:

- Main 1 and Main 2 between Manchester and Troost. (MX279–MX281);
- Main 1 and Main 2 at 18th St. Between KX004 and KX006;
- Mainline at 10th St. (KX287–KX289).

UP is requesting flexibility to treat these main tracks at the Kansas City facilities as tracks other than main tracks so they can have the option of protecting its employees working on, under, or between rolling equipment in accordance with § 218.25 *Workers on a main track*, or § 218.27 *Workers on track other than main track*, or a combination of both. UP believes that the safest and most efficient method of protecting its employees in the Kansas City facilities is through the use of a combination of blue signal protection and remotely controlled switches. UP believes that this request is similar to a waiver originally granted to the SP at El Paso, TX, and renewed to the UP under Docket Number FRA–2000–7669. UP states they have operated under the requirements of that waiver without any adverse effect on safety of operations and would like to have the same conditions for this request.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.*, Waiver Petition Docket Number FRA–2008–0166) and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Fax*: 202–493–2251.
- *Mail*: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
- *Hand Delivery*: 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Issued in Washington, DC on January 30, 2009.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E9–2388 Filed 2–3–09; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2008–0113]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel HANALEI MOON.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

The complete application is given in DOT docket MARAD–2008–0113 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S.-vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before March 6, 2009.

ADDRESSES: Comments should refer to docket number MARAD–2008–0113. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel HANALEI MOON is:

Intended Use: ''Carriage of Passengers in Commerce and Navigation on waters of the United States at Hawaii.''

Geographic Region: ''Hanalei, Hawaiian Islands.''

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: January 29, 2009.

By Order of the Maritime Administrator.

Leonard Sutter,

Secretary, Maritime Administration.

[FR Doc. E9–2328 Filed 2–3–09; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on November 13, 2008, Vol. 73, No.220, Pages 67248–67249.

DATES: Comments must be submitted on or before March 6, 2009.

FOR FURTHER INFORMATION CONTACT: Ann Burton at the National Highway Traffic Safety Administration, Office of Regional Operations and Program Delivery (NTI–200), 202–366–2685, 1200 New Jersey Avenue, SE., W46–492, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: 23 CFR, Part 1313, Alcohol Impaired Driving Countermeasures—Section 410.

OMB Number: 2127–0501.

Type of Request: Extension to a previously approved collection of information.

Abstract: An impaired driving incentive grant is available to States that have an alcohol fatality rate of 0.5 or less per 100 million vehicle miles traveled as determined by using the most recent Fatality Analysis Reporting System (FARS) data or that are one of the ten States that have the highest alcohol related fatality rates as determined by using the most recent FARS data. States designated as a high fatality rate State must submit a comprehensive plan for conducting high visibility enforcement and a report on the previous years activities.

States may also qualify through meeting specified program criteria. To demonstrate compliance using program criteria a State must submit an application that shows how they met three of eight criteria in FY2006, four of eight criteria in FY2007 and five of eight criteria in FY2008 and FY2009.

Affected Public: The 50 States, the District of Columbia, Puerto Rico.

Estimated Total Annual Burden: 1350.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

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 Departments estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A Comment to OMB is most effective if OMB receives it within 30 days of publication.

Marlene Markison,

Associate Administrator, Regional Operations and Program Delivery.

[FR Doc. E9–2279 Filed 2–3–09; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 646 (Sub-No. 2)]

Simplified Standards for Rail Rate Cases—Taxes in Revenue Shortfall Allocation Method; Correction

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice; correction.

SUMMARY: The Surface Transportation Board published a document in the **Federal Register** on January 30, 2009, which directed the Association of American Railroads, and permitted other parties, to file supplemental evidence so that the Board has a full record on which to base its methodology to calculate a railroad-specific average state tax rate for use in the Revenue Shortfall Allocation Method. The published document contained an incorrect date.

FOR FURTHER INFORMATION CONTACT: Timothy J. Strafford, (202) 245–0356.

Correction

In the **Federal Register** of January 30, 2009, in FR Doc. 09–02056, on page 5727, in the third column, correct, ''Decided: January 23, 2008,'' to read, ''Decided: January 23, 2009.'' All other information remains unchanged.

Dated: January 30, 2009.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. E9–2357 Filed 2–3–09; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

January 29, 2009.

The Department of the Treasury will submit the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, and 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before March 6, 2009 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1685.
Type of Review: Extension.
Title: REG–103735–00–REG–155303–03 (Final) Tax Shelter Disclosure Statements.
Description: These regulations provide guidance on the filing requirement under section 6011 for certain corporate taxpayers engaged in transactions producing tax savings in excess of certain dollar thresholds.
Respondents: Businesses or other for-profits.
Estimated Total Burden Hours: 1 hour.
OMB Number: 1545–1992.
Type of Review: Extension.
Title: REG–146459–05–TD 9324 (Final) Designated Roth Contributions Under Section 402A.
Description: The proposed regulations set forth the rules for taxation of distributions from Designated Roth Accounts which are a part of a 401(k) plan or 403(b) plan.
Respondents: Businesses or other for-profits.
Estimated Total Burden Hours: 828,000 hours.
Clearance Officer: Glenn P. Kirkland (202) 622–3428, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Nicholas A. Fraser (202) 395–5887, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Celina Elphage,
Treasury PRA Clearance Officer.
[FR Doc. E9–2351 Filed 2–3–09; 8:45 am]
BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designation of Entities Pursuant to Executive Order 13382

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 individuals and two newly-designated entities whose property and interests in property are blocked pursuant to Executive Order 13382 of June 28, 2005, ''Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters.''

DATES: The designation by the Director of OFAC of the two individuals and two entities identified in this notice pursuant to Executive Order 13382 is effective on January 16, 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 (*http://www.treas.gov/offices/enforcement/ofac*) or via facsimile through a 24-hour fax-on demand service, tel.: (202) 622–0077.

Background

On June 28, 2005, the President, invoking the authority, *inter alia*, of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (''IEEPA''), issued Executive Order 13382 (70 FR 38567, July 1, 2005) (the ''Order''), effective at 12:01 a.m. eastern daylight time on June 29, 2005. In the Order, the President took additional steps with respect to the national emergency described and declared in Executive Order 12938 of November 14, 1994, regarding the proliferation of weapons of mass destruction and the means of delivering them.

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 State, in consultation with the Secretary of the Treasury, the Attorney General, and other relevant agencies, to have engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer or use such items, by any person or foreign country of proliferation concern; (3) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to have provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, any activity or transaction described in clause (2) above or any person whose property and interests in property are blocked pursuant to the Order; and (4) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to the Order.

On January 16, 2009, the Director of OFAC, in consultation with the Departments of State, Justice, and other relevant agencies, designated two individuals and two entities whose property and interests in property are blocked pursuant to Executive Order 13382.

The list of additional designees is as follows:

Individuals

1. TSAI, Hsein Tai (a.k.a. TSAI, ALEX H.T.), C/O TRANS MERITS CO. LTD, Taipei, Taiwan; C/O GLOBAL INTERFACE COMPANY INC., Taipei, Taiwan; DOB 8 Aug 1945; POB Tainan, Taiwan; Passport 131134049 (Taiwan); General Manager—GLOBAL INTERFACE COMPANY INC. (individual) [NPWMD]
2. SU, Lu-Chi (a.k.a. TSAI SU, Lu-Chi), C/O TRANS MERITS CO. LTD., Taipei, Taiwan; C/O GLOBAL INTERFACE COMPANY INC., Taipei, Taiwan; DOB 7 Feb 1950; alt. DOB Nov 1950; POB Yun Lin Hsien, Taiwan; Passport 210215095 (Taiwan); Corporate Officer (individual) [NPWMD]

Entities:

1. TRANS MERITS CO. LTD., 1F, No. 49, Lane 280, Kuang Fu S. Road, Taipei, Taiwan; Business Registration Document # 16316976 (Taiwan) [NPWMD]
2. GLOBAL INTERFACE COMPANY INC. (f.k.a. TRANS SCIENTIFIC CORP.), 9F–1, No. 22, Hsin Yi Rd., Sec. 2, Taipei, Taiwan; 1ST Floor, No. 49, Lane 280, Kuang Fu S. Road, Taipei, Taiwan; Business Registration Document # 12873346 (Taiwan) [NPWMD]

Dated: January 16, 2009.

Adam J. Szubin,
Director, Office of Foreign Assets Control.
[FR Doc. E9–1975 Filed 2–3–09; 8:45 am]
BILLING CODE 4811–45–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request—Thrift Financial Report: Schedules SC, SO, VA, PD, LD, CC, CF, DI, SI, FV, FS, HC, CSS, and CCR

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), OTS may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. On October 1, 2008, OTS requested public comment for 60 days (73 FR 57205) on a proposal to extend, with revisions, the Thrift Financial Report (TFR), which is currently an approved collection of information. The notice described regulatory reporting revisions proposed for the TFR, Schedule SC—Consolidated Statement of Condition, Schedule SO—Consolidated Statement of Operations, Schedule VA—Consolidated Valuation Allowances and Related Data, Schedule PD—Consolidated Past Due and Nonaccrual, Schedule LD—Loan Data, Schedule CC—Consolidated Commitments and Contingencies, Schedule CF—Consolidated Cash Flow Information, Schedule DI—Consolidated Deposit Information, Schedule SI—Supplemental Information, Schedule FS—Fiduciary and Related Services, Schedule HC—Thrift Holding Company, Schedule CSS—Subordinate Organization Schedule, and Schedule CCR—Consolidated Capital Requirement, and on a proposed new schedule, Schedule FV—Consolidated Assets and Liabilities Measured at Fair Value on a Recurring Basis. The changes were proposed on a phased-in basis over 2009.

The revisions would eliminate 3 lines from the TFR, eliminate Schedule CSS in its entirety, revise 24 existing items, add 240 new items (including a new Schedule FV), and eliminate confidential treatment of Schedule FS and Schedule HC data.

After considering the comments received on the proposal, OTS has adopted most of the proposed revisions, with limited exceptions in response to certain comments, on the phased-in basis that had been proposed. OTS continues to evaluate certain other proposed revisions in light of the comments received thereon and will not implement these revisions on their proposed effective dates. OTS is submitting the adopted revisions to OMB for review and approval.

DATES: Submit written comments on or before March 6, 2009. The regulatory reporting revisions described herein take effect on a phased-in basis on March 31, 2009, June 30, 2009, and December 31, 2009.

ADDRESSES: Send comments, referring to the collection by ''1550–0023 (TFR Revisions—2009)'', to OMB and OTS at these addresses: Office of Information and Regulatory Affairs, *Attention:* Desk Officer for OTS, U.S. Office of Management and Budget, 725—17th Street, NW., Room 10235, Washington, DC 20503, or by fax to (202) 395–6974; and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, by fax to (202) 906–6518, or by e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet Site at *http://www.ots.treas.gov/?p=LawsRegulations*. In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., Washington, DC, by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: For further information or to obtain a copy of the submission to OMB, please contact Ira L. Mills, OTS Clearance Officer, at *ira.mills@ots.treas.gov,* (202) 906–6531, or facsimile number (202) 906–6518, Litigation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

You can obtain a copy of the 2009 Thrift Financial Report forms from the OTS Web site at *http://www.ots.treas.gov/?p=ReportFormsBulletins* or you may request it by electronic mail from *tfr.instructions@ots.treas.gov.* You can request additional information about this proposed information collection from James Caton, Director, Financial Monitoring and Analysis Division, (202) 906–5680, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: The effect of the proposed revisions to the reporting requirements of these information collections will vary from institution to institution, depending on the institution's involvement with the types of activities or transactions to which the proposed changes apply. OTS estimates that implementation of these reporting changes will result in a small increase in the current reporting burden imposed by the TFR. The following burden estimates include the effect of the proposed revisions.

Title: Thrift Financial Report.

OMB Number: 1550–0023.

Form Number: OTS 1313.

Statutory Requirement: 12 U.S.C. 1464(v) imposes reporting requirements for savings associations. Except for selected items, these information collections are not given confidential treatment.

Type of Review: Revision of currently approved collections.

Affected Public: Savings associations.

Estimated Number of Respondents and Recordkeepers: 811.

Estimated Burden Hours per Respondent: 54.68 burden hours on average.

Estimated Frequency of Response: Quarterly.

Estimated Total Annual Burden: 177,398 burden hours.

Abstract: All OTS-regulated savings associations must comply with the information collections described in this notice. OTS collects this information each calendar quarter or less frequently if so stated. OTS uses this information to monitor the condition, performance, and risk profile of individual institutions and systemic risk among groups of institutions and the industry as a whole. Except for selected items, these information collections are not given confidential treatment.

I. Background

OTS last revised the form and content of the TFR in a manner that significantly affected a substantial percentage of institutions in March 2007. Revisions since March 2007 focused on specific activities and were primarily made in response to changes in generally accepted accounting principles (GAAP). These focused revisions meant that the new or revised TFR items were minor or applicable to only a small percentage of institutions.

During the past year OTS has evaluated its ongoing information needs. OTS recognizes that the TFR imposes reporting requirements, which are a component of the regulatory burden facing institutions. Another contributor to this regulatory burden is the examination process, particularly on-site examinations during which institution staff spend time and effort responding to inquiries and requests for information designed to assist examiners in evaluating the condition

and risk profile of the institution. The amount of attention that examiners direct to risk areas of the institution under examination is, in large part, determined from TFR data. These data, and analytical reports including the Uniform Thrift Performance Report, assist examiners in scoping and making their preliminary assessments of risks during the planning phase of the examination.

A risk-focused review of the information from an institution's TFR allows examiners to make preliminary risk assessments prior to on-site work. The degree of perceived risk determines the extent of the examination procedures that examiners initially plan for each risk area. If the outcome of these procedures reveals a higher level of risk in a particular area, the examiner adjusts the examination scope and procedures accordingly.

TFR data are also a vital source of information for the monitoring and regulatory activities of OTS. Among their benefits, these activities aid in determining whether the frequency of an institution's examination cycle should remain at maximum allowed time intervals, thereby lessening overall regulatory burden. More risk-focused TFR data enhance the ability of OTS to assess whether an institution is experiencing changes in its risk profile that warrant immediate follow-up, which may include accelerating the timing of an on-site examination.

In developing this proposal, OTS considered a range of potential information needs, particularly in the areas of credit risk, liquidity, and liabilities, and identified those additions to the TFR that are most critical and relevant to OTS in fulfilling its supervisory responsibilities. At the same time, OTS identified certain existing TFR line items that are no longer sufficiently critical or useful to warrant their continued collection. OTS recognizes that the reporting burden that would result from the addition to the TFR of the new items discussed in this proposal would not be fully offset by the proposed elimination of, or establishment of reporting thresholds for, a limited number of other TFR items, thereby resulting in a net increase in reporting burden. After savings associations make any necessary changes to their systems and records, OTS estimated that these reporting changes would produce an average net increase of 2.0 hours per institution per year in the ongoing reporting burden of the TFR. Nevertheless, when viewing these proposed revisions to the TFR within a larger context, they are intended to maintain the effectiveness of the on- and off-site supervision activities of the OTS, which should help to control the overall regulatory burden on institutions.

II. Current Actions

On October 1, 2008, OTS requested comment on proposed revisions to the Thrift Financial Report (73 FR 57205). The proposed changes were to be implemented on a phased-in basis during 2009. A limited group of changes was proposed to take effect March 31, 2009; most revisions were proposed to take effect June 30, 2009; and a final group of revisions was proposed to take effect December 31, 2009.[1]

OTS received one comment letter on the proposed revisions from a trade group representing banks and savings associations of all sizes. The trade group noted the added burden the proposed revisions would place on institutions filing the TFR and asked that OTS adopt only those changes essential to its mission. The trade group commented on a reporting issue that was not addressed in the original proposal and recommended a revision requiring institutions to report ''reciprocal deposits'' [2] separately from brokered deposits. OTS will consider this recommendation concerning reciprocal deposits when it next assesses the need and basis for possible future revisions to the TFR. This commenter also commented on the reporting of sweep accounts from other institutions, including affiliated institutions, noting that the TFR may need to be revised depending on the resolution of how such accounts are treated for deposit insurance assessment purposes.

After considering the comments received on the proposal, OTS has decided to move forward with most of the reporting changes, with limited modifications in response to certain comments, on the phased-in basis that had been proposed. Sections III, IV, and V of this notice identify the changes proposed to take effect March 31, June 30, and December 31, 2009, respectively; and discuss the comments received on the proposed TFR revisions that OTS has decided to implement, as modified.

OTS recognizes institutions' need for lead time to prepare for reporting changes, and thus proposed the phased-in implementation schedule for 2009. TFR items that will be new or revised effective March 31, 2009, are limited in number and most are linked to changes in generally accepted accounting principles taking effect at the same time. For the March 31, 2009, report date, thrifts may provide reasonable estimates for any new or revised TFR item initially required to be reported as of that date for which the requested information is not readily available. This same policy on the use of reasonable estimates will apply to the reporting of other new or revised items when they are first implemented effective June 30 and December 31, 2009. The specific wording of the captions for the new or revised TFR line items discussed in this notice and the numbering of these items should be regarded as preliminary.

III. TFR Revisions Proposed for March 2009

OTS received no comments on revisions proposed in response to accounting changes applicable to noncontrolling (minority) interests in consolidated subsidiaries; and to a reporting addition for other-than-temporary impairment charges on debt and equity securities. Therefore, these revisions will be implemented in March 2009 as proposed.

A. Background

In December 2007, the Financial Accounting Standards Board issued Statement of Financial Accounting Standards No. 160, ''Noncontrolling Interests in Consolidated Financial Statements'' (FAS 160). Under this Statement, a noncontrolling interest, formerly referred to as a minority interest, is that portion of total stockholders' equity and total net income or loss that is not attributable, directly or indirectly, to the parent; that

[1] In addition, on November 26, 2008, OMB approved the Federal banking agencies' joint emergency clearance requests to add two items to Call Report Schedule RC–O, Other Data for Deposit Insurance and FICO Assessments, and to TFR Schedule DI—Consolidated Deposit Information—that are effective December 31, 2008, and that are applicable to all institutions participating in the FDIC's Transaction Account Guarantee Program. A participating institution must report the amount and number of its noninterest-bearing transaction accounts, as defined in the FDIC's regulations governing the program, of more than $250,000 in Call Report Schedule RC–O, Memorandum items 4.a and 4.b, or in TFR Schedule DI, lines DI570 and DI575. The FDIC will use this information to calculate assessments for participants in the Transaction Account Guarantee Program. Because OMB's approval of the agencies' emergency clearance request expires on May 31, 2009, the agencies proposed on December 23, 2008, under OMB's normal clearance procedures to collect these two items each quarter until the Transaction Account Guarantee Program ends. *See* 73 FR 78794.

[2] The trade group also recommended that ''reciprocal deposit'' be defined as a deposit ''obtained when an insured depository institution exchanges funds, dollar-for-dollar, with members of a network of other insured depository institutions, where each member of the network sets the interest rate to be paid on the entire amount of funds it places with other network members, and all funds placed through the network are fully insured by the FDIC.''

is, to the controlling interest. FAS 160 changes the placement of the noncontrolling interest on the balance sheet and income statement. For savings associations and holding companies with a calendar year-end, the Statement becomes effective in the first quarter of 2009. Accordingly, OTS proposes to make certain changes to Schedules SC, SO, HC, and CCR.

B. Elimination of Existing Items

1. As a result of the issuance of FAS 160 (see Background above), OTS will eliminate line CCR190, Minority Interest in Includable Subsidiaries.

C. Revision of Existing Items

1. As a result of the issuance of FAS 160 (see Background above), OTS will revise the captions of lines SC80 from ''Total Equity Capital'' to ''Total Savings Association Equity Capital'', SC800 from ''Minority Interest'' to ''Noncontrolling Interests in Consolidated Subsidiaries'', SC90 from ''Total Liabilities, Minority Interest, and Equity Capital'' to ''Total Liabilities and Equity Capital'', SO 91 from ''Net Income (Loss)'' to ''Net Income (Loss) Attributable to Savings Association'', HC620 from ''Minority Interest'' to ''Noncontrolling Interests in Consolidated Subsidiaries'', HC640 from ''Consolidated Net Income for the Quarter'' to ''Consolidated Net Income (Loss) Attributable to Holding Company'', CCR100 from ''Total Equity Capital (SC80)'' to ''Total Equity Capital (SC84)'', and CCR105 from ''Minority Interest in Nonincludable Subsidiaries'' to ''Investments in, Advances to, and Noncontrolling Interests in Nonincludable Subsidiaries''.

D. New Items

1. As a result of the issuance of FAS 160 (see Background above), OTS proposes to add lines SC84, Total Equity Capital; SO88, Net Income (Loss) Attributable to Savings Association and Noncontrolling Interests; SO880, Net Income (Loss) Attributable to Noncontrolling Interests; and HC635, Consolidated Net Income (Loss) Attributable to Holding Company and Noncontrolling Interests.

2. To separately capture impairment charges on debt and equity securities, OTS proposes to add line SO441, Other-than-Temporary Impairment Charges on Debt and Equity Securities.

E. Eliminating Confidential Treatment of Schedule FS and Schedule HC Data

OTS has, to this point, provided confidential treatment to some of the information that certain institutions report in Schedule FS—Fiduciary and Related Services, on fiduciary and related services income, settlements, surcharges and other losses reported on lines FS310 through FS35, and FS710 through FS70. OTS also accords confidential treatment to all of the information that certain institutions report in Schedule HC—Thrift Holding Company.

An important public policy issue for the federal banking regulatory agencies has been how to use market discipline to complement supervisory resources. Market discipline relies on market participants having sufficient appropriate information about the financial condition and risks of banks, thrifts, and their holding companies. The TFR is widely used by securities analysts, rating agencies, and large institutional investors as sources of thrift-specific data. Disclosure that increases transparency should lead to more accurate market assessments of individual banks' performance and risks. This, in turn, should result in more effective market discipline on thrifts. For these reasons, we proposed eliminating the confidential treatment of data reported on schedules FS and HC.

1. Eliminating Confidential Treatment of Schedule FS Data

The trade group commenting on the proposed revisions opposed eliminating the confidential treatment of fiduciary income and loss data, stating that the agencies' original reason for according confidential treatment to these data, i.e., that these data generally pertain to only a portion of a reporting institution's total operations and not to the institution as a whole, still holds true. This commenter also cited significant competitive concerns with the proposed elimination of confidential treatment because making income and loss data publicly available ''may make it possible for competitors to deduce'' an individual institution's fee schedules. In addition, this commenter believed that these publicly disclosed data may be subject to misinterpretation by market participants who would lack a proper understanding of the scope of the income and loss data reported in Schedule FS because fiduciary income and loss data are presented differently in institutions' audited financial statements prepared in accordance with GAAP. Therefore, this commenter believes that institutions' financial statements can satisfy market participants' needs for fiduciary income and loss data. Finally, this commenter stated that market participants may be confused or misled by the fiduciary income and loss information because they would be unable to determine the source or specific fiduciary activity giving rise to the income or loss.

Data on fiduciary and related services income and losses is treated as confidential on an individual institution basis. Nevertheless, OTS publishes aggregate data derived from these confidential items. OTS does not preclude institutions from publicly disclosing the fiduciary and related services income and loss data that the agencies treat as confidential.

In addition, under the Uniform Interagency Trust Rating System, the agencies assign a rating to the earnings of an institution's fiduciary activities at those institutions with fiduciary assets of more than $100 million, which are also the institutions that report their fiduciary and related services income and losses in Call Report Schedule RC–T and TFR Schedule FS. The agencies' evaluation of an institution's trust earnings considers such factors as the profitability of fiduciary activities in relation to the size and scope of those activities and the institution's overall business, taking this into account by functions and product lines. Although the agencies' ratings for individual institutions are not publicly available, the reason for rating the trust earnings of institutions with more than $100 million in fiduciary assets—its effect on the financial condition of the institution—means that fiduciary and related services income and loss information for these institutions is also relevant to market participants and others in the public as they seek to evaluate the financial condition and performance of individual institutions. Increasing the transparency of institutions' fiduciary activities by making individual institutions' fiduciary income and loss data available to the public should improve the market's ability to assess these institutions' performance and risks and thereby enhance market discipline.

Although the fiduciary income and loss data currently reported in Schedule FS and afforded confidential treatment apply only to a portion of an institution rather than an entire institution, all other data collected in Schedule FS of the TFR is publicly available, even when the data relates only to portions of an institution's activities.

OTS continues to believe that the benefit of increased transparency from the full disclosure of fiduciary income and loss data will improve market discipline by enhancing the market's ability to assess institution-specific performance and risks. After carefully considering the comments on the public availability of fiduciary income and loss data reported in Schedule FS, OTS is

adopting the proposal to eliminate the confidential treatment of such data beginning with the data reported as of March 31, 2009.

2. Eliminating Confidential Treatment of Schedule HC Data

The trade group commenting on the proposed revisions recommended a bifurcated approach to eliminating the confidential treatment of Schedule HC data filed by holding companies. The commenter felt that eliminating confidential treatment of Schedule HC data is appropriate for publicly-held thrift holding companies, but should not be eliminated for privately-held thrift holding companies. However, many public requests are received for these data. In addition, some rating agencies have indicated thrift holding company debt ratings suffer due to the lack of publicly available data. Additionally, Federal Reserve Board Schedule Y–9 filed by bank holding companies is publicly available on consolidated and unconsolidated bases for both publicly and privately owned bank holding companies. It is reasonable that OTS should be consistent with the FRB's treatment of holding company financial information.

Thus, after carefully considering the comments on the public availability of Schedule HC data, OTS is adopting the proposal to eliminate the confidential treatment of such data beginning with the data reported as of March 31, 2009.

IV. TFR Revisions Proposed for June 2009

OTS received no comments related to the following revisions proposed to be effective as of June 2009. Accordingly, these revisions are adopted as proposed.

A. Elimination of Existing Items

1. Schedule SI—Consolidated Supplemental Information

SI805, Do you sell private-label or third-party mutual funds and annuities?; and

SI860, Fee Income from the Sale and Servicing of Mutual Funds and Annuities.

Line SI805 is a yes/no question regarding the sale of private label or third party mutual funds and annuities. Line SI860 reports the amount of fee income from the sale and servicing of mutual funds and annuities. Institutions that provided a yes response to line SI805 will now provide the same response to new line SI910. OTS believes the data reported in line SI860 can be collected independently of the TFR reporting system during the examination process.

B. Revisions of Existing Items

1. Revising the caption for line SO430 from ''Noninterest Income—Net Income (Loss) from Other—Sale of Assets Held for Sale and Available-for-Sale Securities'' to ''Noninterest Income—Net Income (Loss) from Other—Sale of Available-for-Sale Securities'' to separately report gains and losses on the sale of available-for-sale securities from gains and losses on loans and leases held for sale and on other assets held for sale. Gains and losses on loans and leases held for sale and on other assets held for sale would be reported in new lines SO431 and SO432 described below; and

2. Revising the language for question HC840 from ''Is the holding company or any of its subsidiaries regulated by a foreign financial services regulator?'' to ''Is the holding company or any of its affiliates conducting operations outside of the U.S. through a foreign branch or subsidiary?'' This line is being revised to more fully identify holding companies with foreign operations, including parallel banking operations. A parallel banking organization exists when at least one U.S. bank and one foreign financial institution are controlled either directly or indirectly by the same person or group of persons who are closely associated in their business dealings or otherwise acting together, but are not subject to consolidated supervision by a single home country supervisor. A foreign financial institution includes a holding company of the foreign bank and any U.S. or foreign affiliates of the foreign bank.

C. New Items

1. Noninterest Income

OTS proposes to add two lines related to gains and losses on the sale of loans and leases held for sale and on other assets held for sale:

SO431, Noninterest Income—Net Income (Loss) from Other—Sale of Loans and Leases Held for Sale; and

SO432, Noninterest Income—Net Income (Loss) from Other—Sale of Other Assets Held for Sale.

These new lines, in conjunction with the revised line SO430 described above, will allow thrifts to separately report gains and losses on the sale of available-for-sale securities, on loans and leases held for sale, and on other assets held for sale.

2. Loans in Process of Foreclosure

OTS proposes to add a series of eight lines to Schedule PD related to loans in the process of foreclosure:

PD40, Total Loans in Process of Foreclosure;

PD415, Construction Loans in Process of Foreclosure;

PD421, 1–4 Dwelling Units Secured by Revolving Open-End Loans in Process of Foreclosure;

PD423, 1–4 Dwelling Units Secured by First Liens in Process of Foreclosure;

PD424, 1–4 Dwelling Units Secured by Junior Liens in Process of Foreclosure;

PD425, Multifamily (5 or more) Dwelling Units in Process of Foreclosure;

PD435, Nonresidential Property (Except Land) in Process of Foreclosure; and

PD438, Land Loans in Process of Foreclosure.

OTS believes these new line items will provide additional detail on the various types of real estate loans in the process of foreclosure. With these new data items, OTS will be better able to monitor the asset quality and risk profiles of thrifts.

Thrifts would report total unpaid principal balance of loans secured by the various types of real estate for which formal foreclosure proceedings to seize the real estate collateral have started and are ongoing as of quarter-end, regardless of the date the foreclosure procedure was initiated. Loans would be classified as in process of foreclosure according to local requirements.

3. Construction Loans With Capitalized Interest

OTS proposes to add a series of six lines to Schedule LD related to construction loans with capitalized interest:

LD710, Construction Loans on 1—4 Dwelling Units with Capitalized Interest;

LD715, Capitalized Interest on Construction Loans on 1—4 Dwelling Units Included in Current Quarter Income;

LD720, Construction Loans on Multifamily (5 or More) Dwelling Units with Capitalized Interest;

LD725, Capitalized Interest on Construction Loans on Multifamily (5 or More) Dwelling Units Included in Current Quarter Income;

LD730, Construction Loans on Nonresidential Property (Except Land) with Capitalized Interest; and

LD735, Capitalized Interest on Construction Loans on Nonresidential Property (Except Land) Included in Current Quarter Income.

OTS believes these new line items will provide additional detail on the use of capitalized interest in connection with various types of construction

loans. With these new data items, OTS will be better able to monitor the risk profiles of thrifts with concentrations of construction loans.

4. Collateralized Debt Obligations, Collateralized Loan Obligations, and Commercial Mortgage-Backed Securities (CMBSs)

OTS proposes to add a series of six lines to Schedule LD to provide additional reporting detail on collateralized debt obligations (CDOs), collateralized loan obligations (CLOs), and commercial mortgage-backed securities (CMBSs):

LD750, Collateralized Debt Obligations: Carrying Value;

LD755, Collateralized Debt Obligations: Market Value;

LD760, Collateralized Loan Obligations: Carrying Value;

LD765, Collateralized Loan Obligations: Market Value;

LD770, Commercial Mortgage-Backed Securities: Carrying Value; and

LD775, Commercial Mortgage-Backed Securities: Market Value.

CDOs are a type of asset-backed security and structured credit product. CDOs are constructed from a portfolio of fixed-income assets that are pooled together and passed on to different classes of owners.

CLOs are a type of asset-backed security and structured credit product. CLOs are structured from a portfolio of nonmortgage business loans that are pooled together and passed on to different classes of owners.

CMBSs are a type of asset-backed security and structured credit product. CMBSs are structured from a portfolio of commercial mortgage loans that are pooled together and passed on to different classes of owners.

5. Recourse Obligations on Loans in Line CC468

OTS proposes to add two lines to Schedule CC related to recourse obligations on loans in CC468, Amount of Recourse Obligations on Assets in CC455 (Line CC455 is the Total Principal Amount of Assets Covered by Recourse Obligations or Direct Credit Substitutes):

CC469, Amount of Recourse Obligations on Loans in CC468 where Recourse Is Limited to 120 Days or Less; and

CC471, Amount of Recourse Obligations on Loans in CC468 where Recourse Extends Beyond 120 Days.

OTS believes these new line items will provide additional detail on the amount of assets with recourse obligations held by thrifts.

6. Loans Sold With Recourse

OTS proposes to add two lines to Schedule CF related to loans sold during the current reporting period with recourse obligations:

CF365, Memo—Loans Sold with Recourse of 120 Days or Less; and

CF366, Memo—Loans Sold with Recourse Greater Than 120 Days.

OTS believes these new line items will provide additional detail on the quarterly amount of loans sold with recourse obligations held by thrifts.

7. Additions for Deposit Assessment-Related Purposes

At the request of the Federal Deposit Insurance Corporation for deposit assessment-related purposes, the OTS proposes to add the following seven lines to Schedule DI:

DI630, Unsecured Federal Funds Purchased;

DI635, Secured Federal Funds Purchased;

DI641, Securities Sold Under Agreements to Repurchase;

DI645, Unsecured ''Other Borrowings''—With a Remaining Maturity of One Year or Less;

DI651, Unsecured ''Other Borrowings''—With a Remaining Maturity of Over One Year;

DI655, Subordinated Debentures—With a Remaining Maturity of One Year or Less; and

DI660, Subordinated Debentures—With a Remaining Maturity of Over One Year.

The additional reporting detail by maturity is proposed as the FDIC plans to provide a reduction in assessment rates to institutions with longer-term unsecured borrowings and subordinated debt. The FDIC believes that such borrowing and debt will likely remain when an institution fails, thus providing a cushion to help protect the Deposit Insurance Fund.

The trade group commenting on the proposed revisions expressed support for the reporting of maturity distributions of unsecured other borrowings and subordinated debt on Schedule DI, stating that the data would enable the FDIC to implement an adjustment to the risk-based assessment system so that insured depository institutions with greater amounts of general unsecured long-term liabilities could be rewarded with a lower assessment rate.

8. Pledged Loans and Securities

OTS proposes to add two lines to Schedule SI related to loans and securities pledged as collateral for loans:

SI394, Pledged Loans; and

SI395, Pledged Trading Assets.

OTS believes these new line items will provide additional detail on the amount of loans and securities pledged by thrifts as collateral for loans. These data items will permit OTS to better monitor the risk profiles of thrifts with concentrations of pledged loans and securities and are consistent with reporting being added to the Call Report in 2009.

9. Questions Relating to Thrift Activities

OTS proposes to add the following four new questions to Schedule SI:

SI900, ''Does the institution, without trust powers, act as trustee or custodian for Individual Retirement Accounts, Health Savings Accounts, and other similar accounts that are invested in non-deposit products?'';

SI905, ''Does the institution provide custody, safekeeping or other services involving the acceptance of orders for the sale or purchase of securities?'';

SI910, ''Does the institution engage in third party broker arrangements, commonly referred to as ''networking'', to sell securities products or services to thrift customers?''; and

SI915, ''Does the institution sweep deposit funds into any open-end investment management company registered under the Investment Company Act of 1940 that holds itself out as a money market fund?''.

The questions relate to certain brokerage activities such as whether a thrift is a trustee or custodian for certain types of accounts or provides certain services in connection with orders for securities transactions regardless of whether the thrift exercises trust powers.

10. Holding Company Data

OTS proposes to add a series of 30 lines to Schedule HC to provide additional detailed data on the thrift holding company parent and on a consolidated basis:

HC221, Parent Only Perpetual Preferred Stock: Cumulative;

HC222, Parent Only Perpetual Preferred Stock: Noncumulative;

HC223, Parent Only Common Stock: Par Value;

HC224, Parent Only Common Stock: Paid in Excess of Par;

HC225, Parent Only Accumulated Other Comprehensive Income: Unrealized Gains (Losses) on Available-for-Sale Securities;

HC226, Parent Only Accumulated Other Comprehensive Income: Gains (Losses) on Cash Flow Hedges;

HC227, Parent Only Accumulated Other Comprehensive Income: Other;

HC228, Parent Only Retained Earnings;

HC229, Parent Only Other Components of Equity Capital;

HC301, Parent Only Cash, Deposits, and Investment Securities;

HC505, Parent Only Interest Income;

HC509, Parent Only Total Income;

HC570, Parent Only Total Expense;

HC571, Parent Only Total Income Taxes;

HC575, Parent Only Dividends Paid;

HC601, Consolidated Cash, Deposits, and Investment Securities;

HC621, Consolidated Perpetual Preferred Stock: Cumulative;

HC622, Consolidated Perpetual Preferred Stock: Noncumulative;

HC623, Consolidated Common Stock: Par Value;

HC624, Consolidated Common Stock: Paid in Excess of Par;

HC625, Consolidated Accumulated Other Comprehensive Income: Unrealized Gains (Losses) on Available-for-Sale Securities;

HC626, Consolidated Accumulated Other Comprehensive Income: Gains (Losses) on Cash Flow Hedges;

HC627, Consolidated Accumulated Other Comprehensive Income: Other;

HC628, Consolidated Only Retained Earnings;

HC629, Consolidated Only Other Components of Equity Capital.

HC705, Consolidated Interest Income;

HC709, Consolidated Total Income;

HC770, Consolidated Total Expense;

HC771, Consolidated Total Income Taxes; and

HC775, Consolidated Dividends Paid.

OTS believes these new line items will provide additional detail on thrift holding companies. With these new data items, OTS will be better able to monitor the risk profiles of thrift holding companies.

D. Comments Addressing June 30, 2009, Proposed Revisions

OTS received comments addressing each of the following proposed June 30, 2009, revisions:

1. Credit Card Charge-Offs Related to Accrued Interest

OTS proposes to add a line, VA979, Credit Card Charge-Offs Related to Accrued Interest, to capture data on the amount of credit card charge-offs that are due to accrued interest. This change is being made at the request of the FDIC to improve their deposit insurance premium assessment process.

The commenter noted that compliance with this new line item would be difficult for those thrift institutions (including those that use a third-party processor for servicing credit cards) that do not presently capture data on the amount of credit card charge-offs that are due to accrued interest. Since that specific charge-off data is not currently required to be reported on the TFR, the accrued interest is sometimes added to the credit card loan amount and is not tracked as a separate line item. Not all thrift institutions that offer credit cards to their customers have the proposed data readily available within the thrift institution or from their third-party processor to separately report the accrued interest portion of the charge-off.

The commenter expressed concern that third-party credit card processors may not be able to readily provide the new data on the amount of credit card charge-offs that are due to accrued interest.

After considering these comments, OTS has decided to move forward with the addition as proposed. OTS believes that the data to be added should presently be available within an institution's accounting systems.

2. High Loan-to-Value Loans Secured by Multifamily Properties Without PMI or Government Guarantee

The commenter noted generally the need for OTS to provide clear instructions for the revisions to be implemented in 2009. Specifically, the commenter recommended that OTS provide clear instructions for the 16 new line items presented below being added to Schedule LD related to high loan-to-value loans secured by multifamily properties without private mortgage insurance (PMI) or government guarantee:

LD111, High Loan-to-Value Loans Secured by Multifamily Properties without PMI or Government Guarantee: Balances at Quarter-End: 90% up to 100% LTV;

LD121, High Loan-to-Value Loans Secured by Multifamily Properties without PMI or Government Guarantee: Balances at Quarter-End: 100% and greater LTV;

LD211, High Loan-to-Value Loans Secured by Multifamily Properties without PMI or Government Guarantee: Past Due and Nonaccrual Balances: Past Due and Still Accruing: 30–89 Days: 90% up to 100% LTV;

LD221, High Loan-to-Value Loans Secured by Multifamily Properties without PMI or Government Guarantee: Past Due and Nonaccrual Balances: Past Due and Still Accruing: 30–89 Days: 100% and greater LTV;

LD231, High Loan-to-Value Loans Secured by Multifamily Properties without PMI or Government Guarantee: Past Due and Nonaccrual Balances: Past Due and Still Accruing: 90 Days or More: 90% up to 100% LTV;

LD241, High Loan-to-Value Loans Secured by Multifamily Properties without PMI or Government Guarantee: Past Due and Nonaccrual Balances: Past Due and Still Accruing: 90 Days or More: 100% and greater LTV;

LD251, High Loan-to-Value Loans Secured by Multifamily Properties without PMI or Government Guarantee: Past Due and Nonaccrual Balances: Nonaccrual: 90% up to 100% LTV;

LD261, High Loan-to-Value Loans Secured by Multifamily Properties without PMI or Government Guarantee: Past Due and Nonaccrual Balances: Nonaccrual: 100% and greater LTV;

LD311, High Loan-to-Value Loans Secured by Multifamily Properties without PMI or Government Guarantee: Charge-offs and Recoveries: Net Charge-offs (including Specific Valuation Allowance Provisions & Transfers from General to Specific Allowances): 90% up to 100% LTV;

LD321, High Loan-to-Value Loans Secured by Multifamily Properties without PMI or Government Guarantee: Charge-offs and Recoveries: Net Charge-offs (including Specific Valuation Allowance Provisions & Transfers From General to Specific Allowances): 100% and greater LTV;

LD411, High Loan-to-Value Loans Secured by Multifamily Properties without PMI or Government Guarantee: Purchases: 90% up to 100% LTV;

LD421, High Loan-to-Value Loans Secured by Multifamily Properties without PMI or Government Guarantee: Purchases: 100% and greater LTV;

LD431, High Loan-to-Value Loans Secured by Multifamily Properties without PMI or Government Guarantee: Originations: 90% up to 100% LTV;

LD441, High Loan-to-Value Loans Secured by Multifamily Properties without PMI or Government Guarantee: Originations: 100% and greater LTV;

LD451, High Loan-to-Value Loans Secured by Multifamily Properties without PMI or Government Guarantee: Sales: 90% up to 100% LTV; and

LD461, High Loan-to-Value Loans Secured by Multifamily Properties without PMI or Government Guarantee: Sales: 100% and greater LTV.

OTS has decided to add these lines as proposed. OTS believes these new line items will provide additional detail on high loan-to-value loans secured by multifamily properties held by thrifts, including detail on delinquencies, nonaccruals, and net charge-offs, and data on such loans originated, purchased, or sold during the reporting period. With these new data items, OTS will be better able to monitor the risk profiles of thrifts with concentrations of

high loan-to-value multifamily mortgage loans.

3. Deposits Gathered Through CDARS

OTS proposes to add a line to Schedule DI related to deposits gathered through the *Certificate of Deposit Account Registry Service* (CDARS):

DI230, Deposits Gathered through CDARS.

CDARS member institutions accept depositor funds and place these into certificates of deposit issued by financial institutions in the network. This occurs in amounts that ensure that both principal and interest are eligible for full FDIC insurance. OTS believes this new line item will provide additional detail on the deposit funding sources used by thrifts.

The commenter recommended that the TFR be amended to break out ''reciprocal'' deposits in a separate line item from broker-originated deposits that are currently reported on Schedule DI. A reciprocal deposit is obtained when an insured depository institution exchanges funds, dollar-for-dollar, with members of a network of other insured depository institutions, where each member of the network sets the interest rate to be paid on the entire amount of funds it places with other network members, and all funds placed through the network are fully insured by the FDIC. Such an arrangement enables a member of the network to offer its customers a convenient means to obtain access to FDIC insurance on large deposits by working solely with the bank or thrift with which the customer has a relationship. As a result, the bank or thrift is able to accept the large deposits without having to post collateral, which in turn makes more funds available to meet the credit needs of the community.

OTS will consider this recommendation concerning reciprocal deposits when it next assesses the need and basis for possible future revisions to the TFR. OTS has decided to add this line as proposed.

V. TFR Revisions Proposed for December 2009

OTS received no comments related to the following revisions proposed to be effective as of December 2009. Accordingly, these revisions are adopted as proposed.

A. Burden-Reducing Revision

1. Eliminating Schedule CSS—Subordinate Organization Schedule

OTS proposes to eliminate Schedule CSS from the TFR. Twenty-three line items are presently collected annually as of December 31, for each and every required subordinate organization owned directly or indirectly by the savings association. OTS believes these data can be collected independently of the TFR reporting system during the normal onsite or offsite examination process. In the most recent Schedule CSS filing for the reporting period ending December 31, 2007, 337 thrifts reported data for 666 subsidiary organizations and 492 thrifts reported no Schedule CSS data.

B. New Items

1. Schedule FV—Consolidated Assets and Liabilities Measured at Fair Value on a Recurring Basis

Effective for the March 31, 2007, report date, OTS began collecting information on certain assets and liabilities measured at fair value in Schedule SI. The data collected on Schedule SI are intended to be consistent with the fair value disclosures and other requirements in FASB Statement No. 157, *Fair Value Measurements* (FAS 157).

Based on the OTS's ongoing review of industry reporting and disclosure practices since the inception of this standard, and the reporting of items at fair value on Schedule SI, OTS is proposing to expand the data collected from thrifts with total assets greater than $10 billion.

To improve the consistency of data collected with the FAS 157 disclosure requirements and industry disclosure practices, OTS is proposing to add a new Schedule FV for thrifts with total assets greater than $10 billion to the TFR to expand the detail of fair value data collected on Schedule SI in a manner consistent with the asset and liability breakdowns on Schedule RC, Balance Sheet, as proposed by the banking agencies for the Call Report.

OTS has determined that the proposed information is necessary to more accurately assess the impact of fair value accounting and fair value measurements for safety and soundness purposes at the largest thrifts. The collection of the information as proposed will facilitate and enhance OTS's ability to monitor the extent of fair value accounting in thrifts' Reports of Condition pursuant to the disclosure requirements of FAS 157. The information to be collected is consistent with the disclosures required by FAS 157 and consistent with industry practice for reporting fair value measurements and should, therefore, not impose significant incremental burden on thrifts with total assets greater than $10 billion. The following 75 new line items are proposed for Schedule FV:

FV110, Federal Funds Sold and Securities Purchased Under Agreements to Resell—Total Fair Value Reported;

FV111, Federal Funds Sold and Securities Purchased Under Agreements to Resell—Amounts Netted in the Determination of Fair Value;

FV112, Federal Funds Sold and Securities Purchased Under Agreements to Resell—Level 1 Fair Value Measurements;

FV113, Federal Funds Sold and Securities Purchased Under Agreements to Resell—Level 2 Fair Value Measurements;

FV114, Federal Funds Sold and Securities Purchased Under Agreements to Resell—Level 3 Fair Value Measurements;

FV120, Trading Securities—Total Fair Value Reported;

FV121, Trading Securities—Amounts Netted in the Determination of Fair Value;

FV122, Trading Securities—Level 1 Fair Value Measurements;

FV123, Trading Securities—Level 2 Fair Value Measurements;

FV124, Trading Securities—Level 3 Fair Value Measurements;

FV130, Available-for-Sale Securities—Total Fair Value Reported;

FV131, Available-for-Sale Securities—Amounts Netted in the Determination of Fair Value;

FV132, Available-for-Sale Securities—Level 1 Fair Value Measurements;

FV133, Available-for-Sale Securities—Level 2 Fair Value Measurements;

FV134, Available-for-Sale Securities—Level 3 Fair Value Measurements;

FV210, Loans and Leases—Total Fair Value Reported;

FV211, Loans and Leases—Amounts Netted in the Determination of Fair Value;

FV212, Loans and Leases—Level 1 Fair Value Measurements;

FV213, Loans and Leases—Level 2 Fair Value Measurements;

FV214, Loans and Leases—Level 3 Fair Value Measurements;

FV240, Mortgage Servicing Rights—Total Fair Value Reported;

FV241, Mortgage Servicing Rights—Amounts Netted in the Determination of Fair Value;

FV242, Mortgage Servicing Rights—Level 1 Fair Value Measurements;

FV243, Mortgage Servicing Rights—Level 2 Fair Value Measurements;

FV244, Mortgage Servicing Rights—Level 3 Fair Value Measurements;

FV250, Derivative Assets—Total Fair Value Reported;

FV251, Derivative Assets—Amounts Netted in the Determination of Fair Value;

FV252, Derivative Assets—Level 1 Fair Value Measurements;

FV253, Derivative Assets—Level 2 Fair Value Measurements;

FV254, Derivative Assets—Level 3 Fair Value Measurements;

FV310, All Other Financial Assets—Total Fair Value Reported;

FV311, All Other Financial Assets—Amounts Netted in the Determination of Fair Value;

FV312, All Other Financial Assets—Level 1 Fair Value Measurements;

FV313, All Other Financial Assets—Level 2 Fair Value Measurements;

FV314, All Other Financial Assets—Level 3 Fair Value Measurements;

FV360, Total Assets Measured at Fair Value on a Recurring Basis—Total Fair Value Reported;

FV361, Total Assets Measured at Fair Value on a Recurring Basis—Amounts Netted in the Determination of Fair Value;

FV362, Total Assets Measured at Fair Value on a Recurring Basis—Level 1 Fair Value Measurements;

FV363, Total Assets Measured at Fair Value on a Recurring Basis—Level 2 Fair Value Measurements;

FV364, Total Assets Measured at Fair Value on a Recurring Basis—Level 3 Fair Value Measurements;

FV410, Federal Funds Purchased and Securities Sold Under Agreements to Repurchase—Total Fair Value Reported;

FV411, Federal Funds Purchased and Securities Sold Under Agreements to Repurchase—Amounts Netted in the Determination of Fair Value;

FV412, Federal Funds Purchased and Securities Sold Under Agreements to Repurchase—Level 1 Fair Value Measurements;

FV413, Federal Funds Purchased and Securities Sold Under Agreements to Repurchase—Level 2 Fair Value Measurements;

FV414, Federal Funds Purchased and Securities Sold Under Agreements to Repurchase—Level 3 Fair Value Measurements;

FV420, Deposits—Total Fair Value Reported;

FV421, Deposits—Amounts Netted in the Determination of Fair Value;

FV422, Deposits—Level 1 Fair Value Measurements;

FV423, Deposits—Level 2 Fair Value Measurements;

FV424, Deposits—Level 3 Fair Value Measurements;

FV440, Subordinated Debentures—Total Fair Value Reported;

FV441, Subordinated Debentures—Amounts Netted in the Determination of Fair Value;

FV442, Subordinated Debentures—Level 1 Fair Value Measurements;

FV443, Subordinated Debentures—Level 2 Fair Value Measurements;

FV444, Subordinated Debentures—Level 3 Fair Value Measurements;

FV460, Other Borrowings—Total Fair Value Reported;

FV461, Other Borrowings—Amounts Netted in the Determination of Fair Value;

FV462, Other Borrowings—Level 1 Fair Value Measurements;

FV463, Other Borrowings—Level 2 Fair Value Measurements;

FV464, Other Borrowings—Level 3 Fair Value Measurements;

FV470, Derivative Liabilities—Total Fair Value Reported;

FV471, Derivative Liabilities—Amounts Netted in the Determination of Fair Value;

FV472, Derivative Liabilities—Level 1 Fair Value Measurements;

FV473, Derivative Liabilities—Level 2 Fair Value Measurements;

FV474, Derivative Liabilities—Level 3 Fair Value Measurements;

FV490, All Other Financial Liabilities—Total Fair Value Reported;

FV491, All Other Financial Liabilities—Amounts Netted in the Determination of Fair Value;

FV492, All Other Financial Liabilities—Level 1 Fair Value Measurements;

FV493, All Other Financial Liabilities—Level 2 Fair Value Measurements;

FV494, All Other Financial Liabilities—Level 3 Fair Value Measurements;

FV510, Total Liabilities Measured at Fair Value on a Recurring Basis—Total Fair Value Reported;

FV511, Total Liabilities Measured at Fair Value on a Recurring Basis—Amounts Netted in the Determination of Fair Value;

FV512, Total Liabilities Measured at Fair Value on a Recurring Basis—Level 1 Fair Value Measurements;

FV513, Total Liabilities Measured at Fair Value on a Recurring Basis—Level 2 Fair Value Measurements; and

FV514, Total Liabilities Measured at Fair Value on a Recurring Basis—Level 3 Fair Value Measurements.

C. Comments Addressing December 31, 2009, Proposed Revisions to Schedule FS

OTS received comments addressing the following proposed December 31, 2009, revisions to Schedule FS:

1. Fiduciary and Related Services Data

The revisions to Schedule FS include breaking out foundations and endowments as well as investment advisory agency accounts as separate types of fiduciary accounts in the schedule's sections for reporting fiduciary and related assets and income; adding items for Individual Retirement Accounts and similar accounts included in fiduciary and related assets; expanding the breakdown of managed assets by type of asset to cover all types of fiduciary accounts; revising the manner in which discretionary investments in common trust funds and collective investment funds are reported in the breakdown of managed assets by type of asset and adding new asset types to this breakdown of managed assets; adding items for the market value of discretionary investments in proprietary mutual funds and the number of managed accounts holding such investments; and adding items for the number and principal amount outstanding of debt issues in substantive default for which the institution serves as indenture trustee.

The following 14 line items would be revised in Schedule FS:

Revising the caption for line FS260 from ''Investment Management Agency Accounts—Amount of Managed Assets'' to ''Investment Management and Investment Advisory Accounts—Amount of Managed Assets'';

Revising the caption for line FS262 from ''Investment Management Agency Accounts—Number of Managed Accounts'' to ''Investment Management and Investment Advisory Accounts—Number of Managed Accounts'';

Revising the caption for line FS360 from ''Investment Management Agency Accounts'' to ''Investment Management & Investment Advisory Accounts'';

Revising line FS410 to Noninterest-Bearing Deposits—Personal Trust and Agency, Investment Management Agency Accounts;

Revising line FS415 to Interest-Bearing Deposits—Personal Trust and Agency, Investment Management Agency Accounts;

Revising line FS420 to U.S. Treasury and U.S. Government Agency Obligations—Personal Trust and Agency, Investment Management Agency Accounts;

Revising line FS425 to State, County, and Municipal Obligations—Personal Trust and Agency, Investment Management Agency Accounts;

Revising line FS430 to Common Trust Funds and Collective Investment Funds—Personal Trust and Agency, Investment Management Agency Accounts;

Revising line FS435 to Mutual Funds—Equity—Employee Benefit and Other Individual Retirement Accounts;

Revising line FS440 to Mutual Funds—Money Market—All Other Accounts;

Revising line FS445 to Mutual Funds—Other—Total;

Revising line FS450 to Short-Term Obligations—Personal Trust and Agency, Investment Management Agency Accounts;

Revising line FS455 to Other Notes and Bonds—Personal Trust and Agency, Investment Management Agency Accounts; and

Revising line FS460 to Common and Preferred Stocks—Personal Trust and Agency, Investment Management Agency Accounts.

The following 74 line items would be added to Schedule FS:

FS234, IRAs, HSAs, and Similar Accounts—Amount of Managed Assets;

FS235, IRAs, HSAs, and Similar Accounts—Amount of Nonmanaged Assets;

FS236, IRAs, HSAs, and Similar Accounts—Number of Managed Accounts;

FS237, IRAs, HSAs, and Similar Accounts—Number of Nonmanaged Accounts;

FS261, Investment Management and Investment Advisory Accounts—Amount of Nonmanaged Assets;

FS263, Investment Management and Investment Advisory Accounts—Number of Nonmanaged Accounts;

FS264, Foundations and Endowments—Amount of Managed Assets;

FS265, Foundations and Endowments—Amount of Nonmanaged Assets;

FS266, Foundations and Endowments—Number of Managed Accounts;

FS267, Foundations and Endowments—Number of Nonmanaged Accounts;

FS411, Noninterest-Bearing Deposits—Employee Benefit and Other Individual Retirement Accounts;

FS412, Noninterest-Bearing Deposits—All Other Accounts;

FS413, Noninterest-Bearing Deposits—Total;

FS416, Interest-Bearing Deposits—Employee Benefit and Other Individual Retirement Accounts;

FS417, Interest-Bearing Deposits—All Other Accounts;

FS418, Interest-Bearing Deposits—Total;

FS421, U.S. Treasury and U.S. Government Agency Obligations—Employee Benefit and Other Individual Retirement Accounts;

FS422, U.S. Treasury and U.S. Government Agency Obligations—All Other Accounts;

FS423, U.S. Treasury and U.S. Government Agency Obligations—Total;

FS426, State, County, and Municipal Obligations—Employee Benefit and Other Individual Retirement Accounts;

FS427, State, County, and Municipal Obligations—All Other Accounts;

FS428, State, County, and Municipal Obligations—Total;

FS430, Common Trust Funds and Collective Investment Funds—Personal Trust and Agency, Investment Management Agency Accounts;

FS431, Common Trust Funds and Collective Investment Funds—Employee Benefit and Other Individual Retirement Accounts;

FS432, Common Trust Funds and Collective Investment Funds—All Other Accounts;

FS433, Common Trust Funds and Collective Investment Funds—Total;

FS434, Mutual Funds—Equity—Personal Trust and Agency, Investment Management Agency Accounts;

FS435, Mutual Funds—Equity—Employee Benefit and Other Individual Retirement Accounts;

FS436, Mutual Funds—Equity—All Other Accounts;

FS437, Mutual Funds—Equity—Total;

FS438, Mutual Funds—Money Market—Personal Trust and Agency, Investment Management Agency Accounts;

FS439, Mutual Funds—Money Market—Employee Benefit and Other Individual Retirement Accounts;

FS440, Mutual Funds—Money Market—All Other Accounts;

FS441, Mutual Funds—Money Market—Total;

FS442, Mutual Funds—Other—Personal Trust and Agency, Investment Management Agency Accounts;

FS443, Mutual Funds—Other—Employee Benefit and Other Individual Retirement Accounts;

FS444, Mutual Funds—Other—All Other Accounts;

FS445, Mutual Funds—Other—Total;

FS450, Short-Term Obligations—Personal Trust and Agency, Investment Management Agency Accounts;

FS451, Short-Term Obligations—Employee Benefit and Other Individual Retirement Accounts;

FS452, Short-Term Obligations—All Other Accounts;

FS453, Short-Term Obligations—Total;

FS455, Other Notes and Bonds—Personal Trust and Agency, Investment Management Agency Accounts;

FS456, Other Notes and Bonds—Employee Benefit and Other Individual Retirement Accounts;

FS457, Other Notes and Bonds—All Other Accounts;

FS458, Other Notes and Bonds—Total;

FS460, Common and Preferred Stocks—Personal Trust and Agency, Investment Management Agency Accounts;

FS461, Common and Preferred Stocks—Employee Benefit and Other Individual Retirement Accounts;

FS462, Common and Preferred Stocks—All Other Accounts;

FS463, Common and Preferred Stocks—Total;

FS465, Real Estate Mortgages—Personal Trust and Agency, Investment Management Agency Accounts;

FS466, Real Estate Mortgages—Employee Benefit and Other Individual Retirement Accounts;

FS467, Real Estate Mortgages—All Other Accounts;

FS468, Real Estate Mortgages—Total;

FS470, Real Estate—Personal Trust and Agency, Investment Management Agency Accounts;

FS471, Real Estate—Employee Benefit and Other Individual Retirement Accounts;

FS472, Real Estate—All Other Accounts;

FS473, Real Estate—Total;

FS475, Miscellaneous Assets—Personal Trust and Agency, Investment Management Agency Accounts;

FS476, Miscellaneous Assets—Employee Benefit and Other Individual Retirement Accounts;

FS477, Miscellaneous Assets—All Other Accounts;

FS478, Miscellaneous Assets—Total;

FS480, Investments in Unregistered Funds and Private Equity Investments—Personal Trust and Agency, Investment Management Agency Accounts;

FS481, Investments in Unregistered Funds and Private Equity Investments—Employee Benefit and Other Individual Retirement Accounts;

FS482, Investments in Unregistered Funds and Private Equity Investments—All Other Accounts;

FS483, Investments in Unregistered Funds and Private Equity Investments—Total;

FS490, Total Managed Assets—Personal Trust and Agency, Investment Management Agency Accounts;

FS491, Total Managed Assets—Employee Benefit and Other Individual Retirement Accounts;

FS492, Total Managed Assets—All Other Accounts;

FS493, Total Managed Assets—Total;

FS495, Investments of Managed Fiduciary Accounts in Advised or Sponsored Mutual Funds—Market Value of Discretionary Investments in Proprietary Mutual Funds;

FS496, Investments of Managed Fiduciary Accounts in Advised or

Sponsored Mutual Funds—Number of Managed Assets Holding Investments in Proprietary Mutual Funds;

FS516, Corporate and Municipal Trusteeships—Issues Reported in FS520 and FS515 that are in Default—Number of Issues; and

FS517, Corporate and Municipal Trusteeships—Issues Reported in FS520 and FS515 that are in Default—Principal Amount Outstanding.

One trade association submitted comments on the proposed changes to Schedule FS. This commenter requested that the effective date for the proposed changes to Schedule FS be extended from December 31, 2009, to December 31, 2010, in order to provide vendors whose systems track the data reported in this schedule additional time for system programming revisions. The commenter indicated that vendors are currently devoting programming resources to changes necessitated by the joint Securities and Exchange Commission and Federal Reserve Board Regulation R—Exceptions for Banks from the Definition of Broker in the Securities Exchange Act of 1934. This commenter also stated that some banks use multiple systems to track the default status of debt issues under corporate trusteeships and that moving to a single system of record for tracking these debt issues would impose significant costs and require a longer implementation period than proposed.

After carefully considering these comments, OTS has decided to retain the December 31, 2009, effective date for the proposed changes. OTS is not requiring that trust institutions change from their use of multiple systems for corporate trusteeships or that they develop a single system of record for such trusteeships. In addition, OTS notes that institutions are to start complying with Regulation R beginning the first day of their fiscal year commencing after September 30, 2008 (i.e., January 1, 2009, for most institutions), which implies that programming changes should be complete or nearing completion. Furthermore, as previously stated, the agencies' policy is to permit institutions to provide reasonable estimates for any new or revised TFR item as of the report date for which the new or revised item is initially required to be reported. The ability to report reasonable estimates applies to the Schedule FS revisions that will be implemented as of December 31, 2009, which will afford trust institutions and their vendors additional time—either one quarter or one year, depending on the item and frequency with which a particular institution must submit Schedule FS—to complete any necessary system changes.

A. IRAs, HSAs, and Other Similar Accounts

IRAs, HSAs, and other similar accounts represent a large category of individual benefit and retirement-related accounts administered by trust institutions for which OTS does not collect specific data. At present, data for retirement-related accounts is included in the totals reported for ''Other retirement accounts'' and ''Custody and safekeeping accounts'' in the Fiduciary and Related Assets section of Schedule FS (FS240 through 243 and FS280 and 281). Significant growth in IRAs and HSAs administered by trust institutions is expected. IRAs, HSAs, and other similar accounts for individuals have risk characteristics that differ from employee benefit plans covered by the Employee Retirement Income Security Act (ERISA). To identify trust institutions experiencing significant changes in the number of and market value of assets in these types of accounts for supervisory follow-up and to monitor both aggregate and individual trust institution growth trends involving these accounts, OTS proposes to add four new line items (FS234 through FS237, ''IRAs, HSAs, and other similar accounts'') to the Fiduciary and Related Assets section of Schedule FS to capture data on IRAs, HSAs, and other similar accounts.

The commenter recommended that the data proposed to be reported in new lines FS234 through FS237 should be reported instead in a new separate subitem of Retirement-related Trust and Agency Accounts: Employee Benefits, in the Fiduciary and Related Assets section of Schedule FS. In addition, the commenter requested clarification of how IRAs, HSAs, and other similar accounts held outside the trust department on the retail side of an institution should be reported in Schedule FS, recommending that these accounts be excluded.

At present, IRAs, HSAs, and similar accounts that are solely custody and safekeeping accounts are reported in existing items FS280 and FS281, ''Custody and safekeeping accounts.'' Custody and safekeeping accounts are not considered fiduciary accounts per se and are excluded from ''Total fiduciary accounts'' reported in items FS20 through FS23 of Schedule FS. For this reason, OTS does not believe that IRAs, HSAs, and similar accounts should be aggregated and reported in a new subitem of Retirement-related Trust and Agency Accounts: Employee Benefits, in the Fiduciary and Related Assets section of Schedule FS, which is reserved for fiduciary accounts. Therefore, OTS is implementing new item FS223 though FS237, ''IRAs, HSAs, and other similar accounts,'' as proposed.

Regarding the reporting of IRAs, HSAs, and other similar accounts maintained outside the trust department in the retail side of the institution, OTS reiterates that only those activities offered through a fiduciary business unit should be reported on Schedule FS. Therefore, IRAs, HSAs, and other similar accounts not offered through a fiduciary business unit of an institution should not be reported on Schedule FS. These institutions should review new line item SI900 which inquires whether an institution, without trust powers, acts as trustee or custodian for individual retirement accounts, health savings accounts, and other similar accounts that are invested in non-deposit products.

B. Changes to the Type of Assets Reported in the Breakdown of Managed Assets Held in Fiduciary Accounts by Asset Types

OTS reviewed the types of managed assets for which trust institutions currently report a breakdown of such assets by market value in Memoranda—Managed Assets held in Personal Trust and Agency Accounts of Schedule FS. In this regard, discretionary investments in common trust funds (CTFs) and collective investment funds (CIFs) are not separately reported at present in this Memoranda section. Instead, trust institutions currently are required to allocate the underlying assets of each CTF and CIF attributable to managed accounts to the individual line items for the various types of assets reported in this Memorandum section. OTS has found this current method of reporting investments in CTFs and CIFs to be misleading, confusing, and burdensome for trust institutions. It requires institutions to segregate the underlying assets of each CTF and CIF by asset type, rather than following the more straightforward approach of reporting the total value of managed accounts' holdings of investments in CTFs and CIFs. Therefore, OTS proposed to end the current method of reporting these investments in this Memorandum section by adding four new line items (FS430 through FS433) for investments in CTFs and CIFs. These new line items will enable OTS to collect data that actually reflects the investment choices of discretionary fiduciaries, i.e., investing in a fund rather than an individual asset, while simplifying the reporting of these investments.

In its comment on this proposed change, the commenter asked whether both the accounts holding units of CTFs and CIFs and the CTFs and CIFs themselves should be reported in the Fiduciary and Related Assets section of Schedule FS and whether double counting of CTF and CIF units and CTFs and CIFs will result. OTS notes that only the value of units in CTFs and CIFs held in fiduciary accounts should be reported in the Fiduciary and Related Assets section of Schedule FS. When such units are held by a managed fiduciary account, the value of the units will be reported in new line items FS430 through FS433. Look-through reporting of the underlying assets of CTFs and CIFs in this Memorandum section is being eliminated. Double counting of CTF and CIF assets will be avoided by limiting the reporting of the underlying assets of CTFs and CIFs to the existing Memorandum section on Collective Investment Funds and Common Trust Funds in Schedule FS.

At present, the asset type for ''common and preferred stocks'' in Memoranda-Managed Assets held in Personal Trust and Agency Accounts, includes not only these stocks, but also all investments in mutual funds (other than money market mutual funds, which are reported separately), private equity investments, and investments in unregistered and hedge funds. Investments in mutual funds (other than money market mutual funds) have long been reported with common and preferred stocks. However, over time, these investments have gone from being a relatively minor investment option for managed fiduciary accounts to being one of the most significant asset types for managed fiduciary accounts.

As a consequence, OTS lacks specific data on discretionary investments in mutual funds (other than money market mutual funds) despite their distinctive differences from investments in individual common stocks. Given these differences and the growth in mutual fund holdings in managed fiduciary accounts, OTS proposed to add two new subitems in this Memorandum section to collect data on investments in equity mutual funds and in other (non-money market) mutual funds separately from common and preferred stocks. None of the comments OTS received specifically addressed the proposed new subitems for mutual funds in this Memorandum section. OTS will implement the changes as proposed.

Investments in hedge funds and private equity have grown rapidly since the implementation of Schedule FS, with large institutional investors, *e.g.*, large pension plans, increasing their allocation to these types of investments in order to increase portfolio returns and pursue absolute return strategies. As mentioned above, these types of investments are currently reported as ''common and preferred stocks'' in Memoranda-Managed Assets Held in Personal Trust and Agency Accounts. However, given their unique characteristics and risks, the increasing role such investments are having in managed fiduciary portfolios, and the agencies' need to monitor the volume of these investments across the trust industry and at individual trust institutions, OTS also proposed to modify this Memoranda section by adding four new line items (FS480 through FS483) in which trust institutions would report investments in unregistered funds and private equity held in managed accounts.

The commenter suggested that investments in unregistered funds and private equity and investments in common and preferred stocks be reported as separate components of ''Total managed assets held in fiduciary accounts,'' which would eliminate the need for the former type of investments to be included in two subitems of this Memoranda section. OTS agrees with this suggestion and is revising this Memoranda section to exclude investments in unregistered funds and private equity from the subitems for investments in common and preferred stocks. Instead, each type of investment will be reported as a separate component of ''Total managed assets held in fiduciary accounts.''

The commenter also requested that OTS clarify the definition of ''private equity investments'' for purposes of reporting such investments within this Memoranda section and explain whether investments in closely-held family businesses should be reported as ''private equity investments.'' In general, for the purposes of this Memoranda section, private equity investments is an asset class consisting of purchased equity securities in operating companies that are not publicly traded on a stock exchange or otherwise registered with the SEC under the federal securities laws. Investments in closely-held family businesses, however, would not be reported as ''private equity investments'' if such investments represented in-kind transfers to a fiduciary account of securities in a closely-held family business or an increase in a fiduciary account's percentage ownership of an existing closely-held family business whose securities are held in the account. Such investments in closely-held family businesses would be reported in the subitem for miscellaneous assets within this Memoranda section.

C. Corporate Trust and Agency Accounts

Trust institutions currently report the number of corporate and municipal debt issues for which the institution serves as trustee and the outstanding principal amount of these debt issues in Memoranda—Corporate Trust and Agency Accounts. One of the major risks in the area of corporate trust administration involves debt issues that are in substantive default. A substantive default occurs when the issuer fails to make a required payment of interest or principal, defaults on a required payment into a sinking fund, files for bankruptcy, or is declared insolvent.

The occurrence of a substantive default significantly raises the risk profile for an indenture trustee of a defaulted issue. Thus, to monitor and better understand the risk profile of trust institutions serving as an indenture trustee for debt securities and changes therein, OTS proposed to require trust institutions to report the number of such issues that are in substantive default and the principal amount outstanding for these issues.

The commenter suggested clarifications to the scope of the proposed new reporting requirements for debt securities in substantive default for which an institution is serving as indenture trustee. The commenter recommended that the term ''substantive default'' should mean than an event of default for an issue of securities has actually been declared by the trustee with notice to investors. In addition, the commenter recommended that events of default should include both technical and payment defaults. The commenter also proposed that issues in a cure period should not be reported as being in substantive default and, in the case of private placement leases, no substantive default should be reported when the trustee is required to delay or waive the declaration of an event of default unless requested to do so in writing and no such request has been made. The commenter further suggested that, once the trustee's duty with respect to a defaulted issue is completed, the issue no longer should be reported as defaulted. Finally, the commenter requested that OTS confirm that ''amount outstanding'' means the unpaid principal balance or certificate balance.

After considering these recommendations, OTS agrees that issues should not be reported as being in substantive default until such default

has been declared by the trustee. Similarly, issues should not be reported as being in substantive default during a cure period, provided the bond indenture provides for a cure period. Private placement leases where the trustee is required to delay or waive the declaration of an event of default, unless requested in writing to make such declaration, should not be reported as being in substantive default, provided such written request has not been made. Once a trustee's duties with respect to an issue in substantive default have been completed, the issue should no longer be reported as being in default. As for the meaning of the term ''amount outstanding,'' the instructions for this Memoranda section currently refer to the par value of outstanding debt securities, except for zero-coupon bonds for which ''amount outstanding'' is described as the maturity amount. As suggested by the commenter, the instructions for this Memorandum section will be revised to clarify that ''amount outstanding'' for debt instruments means the unpaid principal balance. For trust preferred securities, the ''amount outstanding'' would be the redemption price.

OTS, however, has decided not to treat events of technical default as falling within the scope of the proposed new line items (FS516 and FS517) on debt issues in default for which the institution serves as trustee. As previously stated, OTS believes that a substantive default significantly raises the risk profile for an indenture trustee of a defaulted issue. In such cases, every action or failure to act by the trustee is intensely scrutinized by bondholders of the defaulted issue. Moreover, an event of substantive default often results in the incurrence of significant expense and the distraction of managerial time. For these reasons, OTS proposed to collect data on substantive defaults on issues for which the reporting trust institution serves as trustee under a bond indenture. OTS does not believe that events of technical default necessarily entail the heightened degree of risk that substantive defaults do. Therefore, OTS does not consider it necessary to monitor such events on a system-wide basis. The agencies will continue to monitor the occurrence of events of technical default and an institution's administration of such events during periodic on-site examinations.

In addition, OTS proposed to revise the instructions for reporting on corporate trust accounts to state that issues of trust preferred stock for which the institution is trustee should be included in the amounts reported for corporate and municipal trusteeships. No comments were received on this aspect of the corporate trust reporting proposal and OTS will implement this instructional change as proposed.

D. Instructional Clarifications

OTS proposed to clarify the instructions for reporting:

- The managed and non-managed assets and number of managed and non-managed accounts for defined contribution plans and defined benefit plans in items FS220 through FS233, by indicating that employee benefit accounts for which the trust institution serves as directed trustee should be reported as non-managed accounts; and
- The number of, and market value of assets held in, collective investment funds and common trust funds in Memoranda—Collective Investment Funds and Common Trust Funds by stating that the number of funds should be reported, not the number of assets held by these funds, the number of participants, or the number of accounts invested in the funds.

No comments were received on these proposed instructional clarifications, which will be implemented as proposed.

However, the commenter requested clarification of the term ''managed assets'' used in Schedule FS. The commenter asked whether discretionary accounts in which the management of all or a portion of the account is delegated to a registered investment advisor, whether affiliated or unaffiliated with the reporting trust institution, should be considered managed or non-managed assets. The commenter also sought clarification as to whether non-discretionary accounts that are managed by a registered investment adviser would be reported as custody or non-managed accounts.

The current instructions for Schedule FS state that an account is considered managed if the institution has investment discretion over the assets of the account. Investment discretion is defined as the sole or shared authority (whether or not that authority is exercised) to determine what securities or other assets to purchase or sell on behalf of a fiduciary related account. An institution that delegates its authority over investments and an institution that receives delegated authority over investments are both deemed to have investment discretion. Therefore, whether an account where investment discretion has been delegated to a registered investment adviser, whether affiliated or unaffiliated with the reporting institution, should be reported as a managed account depends on whether the delegation of investment authority to the registered investment adviser was made pursuant to the exercise of investment discretion by the reporting institution. If so, the account is deemed to be a managed account by the reporting institution. Otherwise, the account would be a non-managed account for purposes of Schedule FS.

Dated: January 29, 2009.

Deborah Dakin,

Senior Deputy Chief Counsel, Regulations and Legislation Division.

[FR Doc. E9–2274 Filed 2–3–09; 8:45 am]

BILLING CODE 6720–01–P

Federal Register

Wednesday,
February 4, 2009

Part II

The President

Executive Order 13494—Economy in Government Contracting

Executive Order 13495—Nondisplacement of Qualified Workers Under Service Contracts

Executive Order 13496—Notification of Employee Rights Under Federal Labor Laws

Executive Order 13497—Revocation of Certain Executive Orders Concerning Regulatory Planning and Review

Presidential Determination No. 2009–15 of January 27, 2009—Unexpected Urgent Refugee and Migration Needs Related to Gaza

Federal Register
Vol. 74, No. 22
Wednesday, February 4, 2009

Presidential Documents

Title 3—

The President

Executive Order 13494 of Economy in Government Contracting

Economy in Government Contracting

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Property and Administrative Services Act, 40 U.S.C. 101 *et seq.*, it is hereby ordered that:

Section 1. To promote economy and efficiency in Government contracting, certain costs that are not directly related to the contractors' provision of goods and services to the Government shall be unallowable for payment, thereby directly reducing Government expenditures. This order is also consistent with the policy of the United States to remain impartial concerning any labor-management dispute involving Government contractors. This order does not restrict the manner in which recipients of Federal funds may expend those funds.

Sec. 2. It is the policy of the executive branch in procuring goods and services that, to ensure the economical and efficient administration of Government contracts, contracting departments and agencies, when they enter into, receive proposals for, or make disbursements pursuant to a contract as to which certain costs are treated as unallowable, shall treat as unallowable the costs of any activities undertaken to persuade employees—whether employees of the recipient of the Federal disbursements or of any other entity—to exercise or not to exercise, or concerning the manner of exercising, the right to organize and bargain collectively through representatives of the employees' own choosing. Such unallowable costs shall be excluded from any billing, claim, proposal, or disbursement applicable to any such Federal Government contract.

Sec. 3. Notwithstanding section 2 of this order, contracting departments and agencies shall treat as allowable costs incurred in maintaining satisfactory relations between the contractor and its employees, including costs of labor-management committees, employee publications (other than those undertaken to persuade employees to exercise or not to exercise, or concerning the manner of exercising, the right to organize and bargain collectively), and other related activities. See 48 C.F.R. 31.205–21.

Sec. 4. Examples of costs unallowable under section 2 of this order include the costs of the following activities, when they are undertaken to persuade employees to exercise or not to exercise, or concern the manner of exercising, rights to organize and bargain collectively:

(a) preparing and distributing materials;

(b) hiring or consulting legal counsel or consultants;

(c) holding meetings (including paying the salaries of the attendees at meetings held for this purpose); and

(d) planning or conducting activities by managers, supervisors, or union representatives during work hours.

Sec. 5. Within 150 days of the effective date of this order, the Federal Acquisition Regulatory Council (FAR Council) shall adopt such rules and regulations and issue such orders as are deemed necessary and appropriate to carry out this order. Such rules, regulations, and orders shall minimize the costs of compliance for contractors and shall not interfere with the ability of contractors to engage in advocacy through activities for which they do not claim reimbursement.

Sec. 6. Each contracting department or agency shall cooperate with the FAR Council and provide such information and assistance as the FAR Council may require in the performance of its functions under this order.

Sec. 7. (a) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(b) This order 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. 8. This order shall become effective immediately, and shall apply to contracts resulting from solicitations issued on or after the effective date of the action taken by the FAR Council under section 5 of this order.

THE WHITE HOUSE,
January 30, 2009.

[FR Doc. E9–2483
Filed 2–3–09; 8:45 am]
Billing code 3195–W9–P

Presidential Documents

Executive Order 13495 of January 30, 2009

Nondisplacement of Qualified Workers Under Service Contracts

When a service contract expires, and a follow-on contract is awarded for the same service, at the same location, the successor contractor or its subcontractors often hires the majority of the predecessor's employees. On some occasions, however, a successor contractor or its subcontractors hires a new work force, thus displacing the predecessor's employees.

The Federal Government's procurement interests in economy and efficiency are served when the successor contractor hires the predecessor's employees. A carryover work force reduces disruption to the delivery of services during the period of transition between contractors and provides the Federal Government the benefits of an experienced and trained work force that is familiar with the Federal Government's personnel, facilities, and requirements.

Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Property and Administrative Services Act, 40 U.S.C. 101 *et seq.*, and in order to promote economy and efficiency in Federal Government procurement, it is hereby ordered as follows:

Section 1. *Policy.* It is the policy of the Federal Government that service contracts and solicitations for such contracts shall include a clause that requires the contractor, and its subcontractors, under a contract that succeeds a contract for performance of the same or similar services at the same location, to offer those employees (other than managerial and supervisory employees) employed under the predecessor contract whose employment will be terminated as a result of the award of the successor contract, a right of first refusal of employment under the contract in positions for which they are qualified. There shall be no employment openings under the contract until such right of first refusal has been provided. Nothing in this order shall be construed to permit a contractor or subcontractor to fail to comply with any provision of any other Executive Order or law of the United States.

Sec. 2. *Definitions.*

(a) ''Service contract'' or ''contract'' means any contract or subcontract for services entered into by the Federal Government or its contractors that is covered by the Service Contract Act of 1965, as amended, 41 U.S.C. 351 *et seq.*, and its implementing regulations.

(b) ''Employee'' means a service employee as defined in the Service Contract Act of 1965, 41 U.S.C. 357(b).

Sec. 3. *Exclusions.* This order shall not apply to:

(a) contracts or subcontracts under the simplified acquisition threshold as defined in 41 U.S.C. 403;

(b) contracts or subcontracts awarded pursuant to the Javits-Wagner-O'Day Act, 41 U.S.C. 46–48c;

(c) guard, elevator operator, messenger, or custodial services provided to the Federal Government under contracts or subcontracts with sheltered workshops employing the severely handicapped as described in section 505 of the Treasury, Postal Services and General Government Appropriations Act, 1995, Public Law 103–329;

(d) agreements for vending facilities entered into pursuant to the preference regulations issued under the Randolph-Sheppard Act, 20 U.S.C. 107; or

(e) employees who were hired to work under a Federal service contract and one or more nonfederal service contracts as part of a single job, provided that the employees were not deployed in a manner that was designed to avoid the purposes of this order.

Sec. 4. *Authority to Exempt Contracts.* If the head of a contracting department or agency finds that the application of any of the requirements of this order would not serve the purposes of this order or would impair the ability of the Federal Government to procure services on an economical and efficient basis, the head of such department or agency may exempt its department or agency from the requirements of any or all of the provisions of this order with respect to a particular contract, subcontract, or purchase order or any class of contracts, subcontracts, or purchase orders.

Sec. 5. *Contract Clause.* The following contract clause shall be included in solicitations for and service contracts that succeed contracts for performance of the same or similar work at the same location:

''NONDISPLACEMENT OF QUALIFIED WORKERS

''(a) Consistent with the efficient performance of this contract, the contractor and its subcontractors shall, except as otherwise provided herein, in good faith offer those employees (other than managerial and supervisory employees) employed under the predecessor contract whose employment will be terminated as a result of award of this contract or the expiration of the contract under which the employees were hired, a right of first refusal of employment under this contract in positions for which employees are qualified. The contractor and its subcontractors shall determine the number of employees necessary for efficient performance of this contract and may elect to employ fewer employees than the predecessor contractor employed in connection with performance of the work. Except as provided in paragraph (b) there shall be no employment opening under this contract, and the contractor and any subcontractors shall not offer employment under this contract, to any person prior to having complied fully with this obligation. The contractor and its subcontractors shall make an express offer of employment to each employee as provided herein and shall state the time within which the employee must accept such offer, but in no case shall the period within which the employee must accept the offer of employment be less than 10 days.

''(b) Notwithstanding the obligation under paragraph (a) above, the contractor and any subcontractors (1) may employ under this contract any employee who has worked for the contractor or subcontractor for at least 3 months immediately preceding the commencement of this contract and who would otherwise face lay-off or discharge, (2) are not required to offer a right of first refusal to any employee(s) of the predecessor contractor who are not service employees within the meaning of the Service Contract Act of 1965, as amended, 41 U.S.C. 357(b), and (3) are not required to offer a right of first refusal to any employee(s) of the predecessor contractor whom the contractor or any of its subcontractors reasonably believes, based on the particular employee's past performance, has failed to perform suitably on the job.

''(c) In accordance with Federal Acquisition Regulation 52.222–41(n), the contractor shall, not less than 10 days before completion of this contract, furnish the Contracting Officer a certified list of the names of all service employees working under this contract and its subcontracts during the last month of contract performance. The list shall also contain anniversary dates of employment of each service employee under this contract and its predecessor contracts either with the current or predecessor contractors or their subcontractors. The Contracting Officer will provide the list to the successor contractor, and the list shall be provided on request to employees or their representatives.

''(d) If it is determined, pursuant to regulations issued by the Secretary of Labor (Secretary), that the contractor or its subcontractors are not in compliance with the requirements of this clause or any regulation or order of the Secretary, appropriate sanctions may be imposed and remedies invoked against the contractor or its subcontractors, as provided in Executive Order (No.) _____, the regulations, and relevant orders of the Secretary, or as otherwise provided by law.

''(e) In every subcontract entered into in order to perform services under this contract, the contractor will include provisions that ensure that each subcontractor will honor the requirements of paragraphs (a) through (b) with respect to the employees of a predecessor subcontractor or subcontractors working under this contract, as well as of a predecessor contractor and its subcontractors. The subcontract shall also include provisions to ensure that the subcontractor will provide the contractor with the information about the employees of the subcontractor needed by the contractor to comply with paragraph 5(c), above. The contractor will take such action with respect to any such subcontract as may be directed by the Secretary as a means of enforcing such provisions, including the imposition of sanctions for noncompliance: provided, however, that if the contractor, as a result of such direction, becomes involved in litigation with a subcontractor, or is threatened with such involvement, the contractor may request that the United States enter into such litigation to protect the interests of the United States.''

Sec. 6. *Enforcement.* (a) The Secretary of Labor (Secretary) is responsible for investigating and obtaining compliance with this order. In such proceedings, the Secretary shall have the authority to issue final orders prescribing appropriate sanctions and remedies, including, but not limited to, orders requiring employment and payment of wages lost. The Secretary also may provide that where a contractor or subcontractor has failed to comply with any order of the Secretary or has committed willful violations of this order or the regulations issued pursuant thereto, the contractor or subcontractor, and its responsible officers, and any firm in which the contractor or subcontractor has a substantial interest, shall be ineligible to be awarded any contract of the United States for a period of up to 3 years. Neither an order for debarment of any contractor or subcontractor from further Government contracts under this section nor the inclusion of a contractor or subcontractor on a published list of noncomplying contractors shall be carried out without affording the contractor or subcontractor an opportunity for a hearing.

(b) This order creates no rights under the Contract Disputes Act, and disputes regarding the requirement of the contract clause prescribed by section 5 of this order, to the extent permitted by law, shall be disposed of only as provided by the Secretary in regulations issued under this order. To the extent practicable, such regulations shall favor the resolution of disputes by efficient and informal alternative dispute resolution methods. The Secretary shall, in consultation with the Federal Acquisition Regulatory Council, issue regulations, within 180 days of the date of this order, to the extent permitted by law, to implement the requirements of this order. The Federal Acquisition Regulatory Council shall issue, within 180 days of the date of this order, to the extent permitted by law, regulations in the Federal Acquisition Regulation to provide for inclusion of the contract clause in Federal solicitations and contracts subject to this order.

Sec. 7. *Revocation.* Executive Order 13204 of February 17, 2001, is revoked.

Sec. 8. *Severability.* If any provision of this order, or the application of such provision or amendment to any person or circumstance, is held to be invalid, the remainder of this order and the application of the provisions of such to any person or circumstances shall not be affected thereby.

Sec. 9. *General Provisions.* (a) Nothing in this order 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.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order 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. This order is not intended, however, to preclude judicial review of final decisions by the Secretary in accordance with the Administrative Procedure Act, 5 U.S.C. 701 *et seq.*

Sec. 10. *Effective Date.* This order shall become effective immediately and shall apply to solicitations issued on or after the effective date for the action taken by the Federal Acquisition Regulatory Council under section 6(b) of this order.

THE WHITE HOUSE,
January 30, 2009.

[FR Doc. E9–2484
Filed 2–3–09; 8:45 am]
Billing code 3195–W9–P

Presidential Documents

Executive Order 13496 of January 30, 2009

Notification of Employee Rights Under Federal Labor Laws

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Property and Administrative Services Act, 40 U.S.C. 101 *et seq.*, and in order to ensure the economical and efficient administration and completion of Government contracts, it is hereby ordered that:

Section 1. *Policy.* This order is designed to promote economy and efficiency in Government procurement. When the Federal Government contracts for goods or services, it has a proprietary interest in ensuring that those contracts will be performed by contractors whose work will not be interrupted by labor unrest. The attainment of industrial peace is most easily achieved and workers' productivity is enhanced when workers are well informed of their rights under Federal labor laws, including the National Labor Relations Act (Act), 29 U.S.C. 151 *et seq.* As the Act recognizes, ''encouraging the practice and procedure of collective bargaining and . . . protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection'' will ''eliminate the causes of certain substantial obstructions to the free flow of commerce'' and ''mitigate and eliminate these obstructions when they have occurred.'' 29 U.S.C. 151. Relying on contractors whose employees are informed of such rights under Federal labor laws facilitates the efficient and economical completion of the Federal Government's contracts.

Sec. 2. *Contract Clause.* Except in contracts exempted in accordance with section 3 of this order, all Government contracting departments and agencies shall, to the extent consistent with law, include the following provisions in every Government contract, other than collective bargaining agreements as defined in 5 U.S.C. 7103(a)(8) and purchases under the simplified acquisition threshold as defined in the Office of Federal Procurement Policy Act, 41 U.S.C. 403.

''1. During the term of this contract, the contractor agrees to post a notice, of such size and in such form, and containing such content as the Secretary of Labor shall prescribe, in conspicuous places in and about its plants and offices where employees covered by the National Labor Relations Act engage in activities relating to the performance of the contract, including all places where notices to employees are customarily posted both physically and electronically. The notice shall include the information contained in the notice published by the Secretary of Labor in the *Federal Register* (Secretary's Notice).

''2. The contractor will comply with all provisions of the Secretary's Notice, and related rules, regulations, and orders of the Secretary of Labor.

''3. In the event that the contractor does not comply with any of the requirements set forth in paragraphs (1) or (2) above, this contract may be cancelled, terminated, or suspended in whole or in part, and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in or adopted pursuant to Executive Order [number as provided by the Federal Register] of [insert new date]. Such other sanctions or remedies may be imposed as are provided in Executive Order [number as provided by the Federal Register] of [insert new date], or by

rule, regulation, or order of the Secretary of Labor, or as are otherwise provided by law.

''4. The contractor will include the provisions of paragraphs (1) through (3) above in every subcontract entered into in connection with this contract (unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 3 of Executive Order [number as provided by the Federal Register] of [insert new date]) so that such provisions will be binding upon each subcontractor. The contractor will take such action with respect to any such subcontract as may be directed by the Secretary of Labor as a means of enforcing such provisions, including the imposition of sanctions for non-compliance: Provided, however, that if the contractor becomes involved in litigation with a subcontractor, or is threatened with such involvement, as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.''

Sec. 3. *Administration.*

(a) The Secretary of Labor (Secretary) shall be responsible for the administration and enforcement of this order. The Secretary shall adopt such rules and regulations and issue such orders as are necessary and appropriate to achieve the purposes of this order.

(b) Within 120 days of the effective date of this order, the Secretary shall initiate a rulemaking to prescribe the size, form, and content of the notice to be posted by a contractor under paragraph 1 of the contract clause described in section 2 of this order. Such notice shall describe the rights of employees under Federal labor laws, consistent with the policy set forth in section 1 of this order.

(c) Whenever the Secretary finds that an act of Congress, clarification of existing law by the courts or the National Labor Relations Board, or other circumstances make modification of the contractual provisions set out in subsection (a) of this section necessary to achieve the purposes of this order, the Secretary promptly shall issue such rules, regulations, or orders as are needed to cause the substitution or addition of appropriate contractual provisions in Government contracts thereafter entered into.

Sec. 4. *Exemptions.* (a) If the Secretary finds that the application of any of the requirements of this order would not serve the purposes of this order or would impair the ability of the Government to procure goods or services on an economical and efficient basis, the Secretary may exempt a contracting department or agency or group of departments or agencies from the requirements of any or all of the provisions of this order with respect to a particular contract or subcontract or any class of contracts or subcontracts.

(b) The Secretary may, if the Secretary finds that special circumstances require an exemption in order to serve the national interest, exempt a contracting department or agency from the requirements of any or all of the provisions of section 2 of this order with respect to a particular contract or subcontract or class of contracts or subcontracts.

Sec. 5. *Investigation.*

(a) The Secretary may investigate any Government contractor, subcontractor, or vendor to determine whether the contractual provisions required by section 2 of this order have been violated.

Such investigations shall be conducted in accordance with procedures established by the Secretary.

(b) The Secretary shall receive and investigate complaints by employees of a Government contractor or subcontractor, where such complaints allege a failure to perform or a violation of the contractual provisions required by section 2 of this order.

Sec. 6. *Compliance.*

(a) The Secretary, or any agency or officer in the executive branch lawfully designated by rule, regulation, or order of the Secretary, may hold such

hearings, public or private, regarding compliance with this order as the Secretary may deem advisable.

(b) The Secretary may hold hearings, or cause hearings to be held, in accordance with subsection (a) of this section, prior to imposing, ordering, or recommending the imposition of sanctions under this order. Neither an order for cancellation, termination, or suspension of any contract or debarment of any contractor from further Government contracts under section 7(b) of this order nor the inclusion of a contractor on a published list of noncomplying contractors under section 7(c) of this order shall be carried out without affording the contractor an opportunity for a hearing.

Sec. 7. *Remedies.* In accordance with such rules, regulations, or orders as the Secretary may issue or adopt, the Secretary may:

(a) after consulting with the contracting department or agency, direct that department or agency to cancel, terminate, suspend, or cause to be cancelled, terminated, or suspended, any contract, or any portion or portions thereof, for failure of the contractor to comply with the contractual provisions required by section 2 of this order; contracts may be cancelled, terminated, or suspended absolutely, or continuance of contracts may be conditioned upon future compliance: Provided, that before issuing a directive under this subsection, the Secretary shall provide the head of the contracting department or agency an opportunity to offer written objections to the issuance of such a directive, which objections shall include a complete statement of reasons for the objections, among which reasons shall be a finding that completion of the contract is essential to the agency's mission: And provided further, that no directive shall be issued by the Secretary under this subsection so long as the head of the contracting department or agency, or his or her designee, continues to object to the issuance of such directive;

(b) after consulting with each affected contracting department or agency, provide that one or more contracting departments or agencies shall refrain from entering into further contracts, or extensions or other modifications of existing contracts, with any noncomplying contractor, until such contractor has satisfied the Secretary that such contractor has complied with and will carry out the provisions of this order: Provided, that before issuing a directive under this subsection, the Secretary shall provide the head of each contracting department or agency an opportunity to offer written objections to the issuance of such a directive, which objections shall include a complete statement of reasons for the objections, among which reasons shall be a finding that further contracts or extensions or other modifications of existing contracts with the noncomplying contractor are essential to the agency's mission: And provided further, that no directive shall be issued by the Secretary under this subsection so long as the head of a contracting department or agency, or his or her designee, continues to object to the issuance of such directive; and

(c) publish, or cause to be published, the names of contractors that have, in the judgment of the Secretary, failed to comply with the provisions of this order or of related rules, regulations, and orders of the Secretary.

Sec. 8. *Reports.* Whenever the Secretary invokes section 7(a) or 7(b) of this order, the contracting department or agency shall report to the Secretary the results of the action it has taken within such time as the Secretary shall specify.

Sec. 9. *Cooperation.* Each contracting department and agency shall cooperate with the Secretary and provide such information and assistance as the Secretary may require in the performance of the Secretary's functions under this order.

Sec. 10. *Sufficiency of Remedies.* If the Secretary finds that the authority vested in the Secretary by sections 5 through 9 of this order is not sufficient to effectuate the purposes of this order, the Secretary shall develop recommendations on how better to effectuate those purposes.

Sec. 11. *Delegation.* The Secretary may, in accordance with law, delegate any function or duty of the Secretary under this order to any officer in the Department of Labor or to any other officer in the executive branch of the Government, with the consent of the head of the department or agency in which that officer serves.

Sec. 12. *Implementation.* To the extent permitted by law, the Federal Acquisition Regulatory Council (FAR Council) shall take whatever action is required to implement in the Federal Acquisition Regulation (FAR) the provisions of this order and any related rules, regulations, or orders issued by the Secretary under this order and shall amend the FAR to require each solicitation of offers for a contract to include a provision that implements section 2 of this order.

Sec. 13. *Revocation of Prior Order and Actions.* Executive Order 13201 of February 17, 2001, is revoked. The heads of executive departments and agencies shall, to the extent permitted by law, revoke expeditiously any orders, rules, regulations, guidelines, or policies implementing or enforcing Executive Order 13201.

Sec. 14. *Severability.* If any provision of this order, or the application of such provision to any person or circumstance, is held to be invalid, the remainder of this order and the application of the provisions of such to any person or circumstances shall not be affected thereby.

Sec. 15. *General Provisions.*

(a) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to a 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.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order 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. 16. *Effective Date.* This order shall become effective immediately, and shall apply to contracts resulting from solicitations issued on or after the effective date of the rule promulgated by the Secretary pursuant to section 3(b) of this order.

THE WHITE HOUSE,
January 30, 2009.

[FR Doc. E9–2485
Filed 2–3–09; 8:45 am]
Billing code 3195–W9–P

Presidential Documents

Executive Order 13497 of January 30, 2009

Revocation of Certain Executive Orders Concerning Regulatory Planning and Review

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered that:

Section 1. Executive Order 13258 of February 26, 2002, and Executive Order 13422 of January 18, 2007, concerning regulatory planning and review, which amended Executive Order 12866 of September 30, 1993, are revoked.

Sec. 2. The Director of the Office of Management and Budget and the heads of executive departments and agencies shall promptly rescind any orders, rules, regulations, guidelines, or policies implementing or enforcing Executive Order 13258 or Executive Order 13422, to the extent consistent with law.

Sec. 3. This order 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 WHITE HOUSE,
January 30, 2009.

[FR Doc. E9–2486
Filed 2–3–09; 8:45 am]
Billing code 3195–W9–P

Presidential Documents

Presidential Determination No. 2009–15 of January 27, 2009

Unexpected Urgent Refugee and Migration Needs Related To Gaza

Memorandum for the Secretary of State

By the authority vested in me by the Constitution and the laws of the United States, including section 2(c)(1) of the Migration and Refugee Assistance Act of 1962 (the ''Act''), as amended (22 U.S.C. 2601), I hereby determine, pursuant to section 2(c)(1) of the Act, that it is important to the national interest to furnish assistance under the Act in an amount not to exceed $20.3 million from the United States Emergency Refugee and Migration Assistance Fund for the purpose of meeting unexpected and urgent refugee and migration needs, including by contributions to international, governmental, and nongovernmental organizations and payment of administrative expenses of Bureau of Population, Refugees, and Migration of the Department of State, related to humanitarian needs of Palestinian refugees and conflict victims in Gaza.

You are authorized and directed to publish this memorandum in the *Federal Register*.

THE WHITE HOUSE,
Washington, January 27, 2009

[FR Doc. E9–2488
Filed 2–3–09; 8:45 am]
Billing code 4710–10–P

Reader Aids

Federal Register

Vol. 74, No. 22

Wednesday, February 4, 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
5983–6116 4

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

Executive Orders:
13201 (revoked by 13496) 6107
13204 (revoked by 13495) 6103
13258 (revoked by 13497) 6113
13422 (revoked by 13497) 6113
13494 6101
13495 6103
13496 6107
13497 6113

Administrative Orders:
Memorandums:
Memo. of 1/30/2009 5977
Memo. of 1/30/2009 5979

Administrative Orders:
Presidential Determinations:
No. 2009–15 of January 27, 2009 6115

5 CFR

Proposed Rules:
532 6003

8 CFR

274a 5899

10 CFR

Ch. 1 5797
72 5983

12 CFR

360 5797

Proposed Rules:
337 5904
704 6004

16 CFR

Proposed Rules:
255 5810

20 CFR

404 5807

22 CFR

215 5808

29 CFR

403 5899
408 5899

Proposed Rules:
2550 6007

33 CFR

117 .....5983, 5984, 5986
165 .....5987, 5989

40 CFR

6 5991
112 5900
271 5994

Proposed Rules:
6 6008
271 6010

42 CFR

440 5808

47 CFR

73 6001

50 CFR

Proposed Rules:
17 5908
216 6010

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

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.