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Washington, DC 20002

RESERVATIONS: (202) 741–6008

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 305 and 319

[Docket No. APHIS–2007–0115]

RIN 0579–AC83

Importation of Sweet Oranges and Grapefruit From Chile

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the fruits and vegetables regulations to allow the importation, under certain conditions, of sweet oranges and grapefruit from Chile into the continental United States. Based on the evidence in a recent pest risk analysis, we believe these articles can be safely imported from all provinces of Chile, provided certain conditions are met. This action provides for the importation of sweet oranges and grapefruit from Chile into the continental United States while continuing to protect the United States against the introduction of plant pests.

DATES: *Effective Date:* May 7, 2009.

FOR FURTHER INFORMATION CONTACT: Mr. Alex Belano, Branch Chief, Risk Management and Plants for Planting Policy, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 734–5333.

SUPPLEMENTARY INFORMATION:

Background

The regulations in ''Subpart–Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–48, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests.

On August 28, 2008, we published in the **Federal Register** (73 FR 50732–50738, Docket No. APHIS–2007–0115) a proposal [1] to amend the regulations by allowing the importation, into the continental United States, of commercial shipments of sweet oranges and grapefruit from Chile subject to certain conditions. Those conditions included cold treatment to mitigate the risk associated with *Ceratitis capitata* (Mediterranean fruit fly or Medfly) and methyl bromide fumigation or an existing systems approach for other citrus varieties from Chile to mitigate the risk associated with *Brevipalpus chilensis* (Chilean false red mite).

We solicited comments concerning our proposal for 60 days ending October 27, 2008. We received 33 comments by that date. They were from importers, private citizens, a State department of agriculture, citrus growers and shippers, a trade association, port facilities, a customs brokerage firm, grocery stores, a national plant protection organization, and industry groups. Twenty-eight commenters supported the proposal. Five commenters had concerns regarding the proposed rule, which are discussed below.

One commenter stated that there should be checks and balances to ensure that Chile adheres to the requirements in the proposal.

We agree with the commenter. The regulations provide several checks and balances, including, but not limited to, production at registered production sites of which the Animal and Plant Health Inspection Service (APHIS) must be notified and inspection at APHIS-approved inspection sites under the direction of APHIS inspectors. In addition, as stated in the proposed rule, a permit for the importation of Chilean sweet oranges or grapefruit could be amended or withdrawn by the Administrator at any time if it is determined that the importation presents a risk.

As part of the systems approach for sweet oranges and grapefruit from Chile, we proposed that a random sample of fruit from each production site be subject to a washing process that allows for the detection of mites. The washing process involves placing the fruit and pedicels in 200 mesh sieves, sprinkling them with a liquid soap and water solution, washing them with water at high pressure, washing them with water at low pressure, and then repeating the process. Once the fruit has been washed thoroughly, all contents of the sieves, which collect everything that is washed off of the fruit, are put on a petri dish and analyzed for the presence of mites. One commenter stated that the 200 mesh sieve is not sufficient to catch immature mites and should be changed to a 325 mesh sieve.

We have determined that a 200 mesh sieve will suffice to catch quarantine pests in all stages of development. However, we do recognize that it may be common in certain areas to use a sieve of a finer mesh; indeed, APHIS has long used sieves of 230 mesh to conduct inspections at ports of first arrival. Likewise, we also recognize that there may be instances when a sieve of a finer mesh is more readily available. Therefore, we are modifying proposed § 319.56–38(d)(2) to state that a sieve of 200 mesh or finer must be used.

Two commenters stated that the description of the post-harvest processing in the proposed rule contained an error, as it omits the required washing with detergent and brushing using bristle rollers.

While the commenters are correct that this provision was inadvertently omitted in the description of the post-harvest processing in the preamble of the proposed rule, this provision is included in the post-harvest processing requirements for clementines, mandarins, and tangerines from Chile listed in § 319.56–38(d)(3). Because we proposed to amend § 319.56–38 to include sweet oranges and grapefruit, the section as we proposed to amend it would have required all the post-harvest processing steps, including the washing and brushing, for sweet oranges and grapefruit from Chile. Therefore, no changes to the proposed rule are necessary based on this comment.

However, we are making a minor change to one of the provisions for post-harvesting processing to replace the required chlorine bath with a potable water bath. This is because the washing action itself and not the chlorine is the mitigation measure. Washing with a chlorine bath is a routine packinghouse procedure employed in Chile, and the chlorine itself does not have any

[1] To view the proposed rule and the comments we received, go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2007-0115.*

efficacy against the listed quarantine pests. Therefore, we are removing the chlorine requirement, as it is unnecessary.

The table in § 305.2(h)(2)(i) of our phytosanitary treatments regulations in 7 CFR Part 305 identifies treatment schedules for fruits and vegetables from foreign localities for which there is an approved treatment. However, entries for clementines, mandarins, and tangerines from Chile were inadvertently omitted from the list of approved treatments. Therefore, we proposed to amend the list in § 305.2(h)(2)(i) by adding entries for clementines, mandarins, and tangerines from certain regions within Chile and specifically identifying the cold treatment and methyl bromide fumigation treatment schedules that are approved for those commodities from those regions. We also proposed to add entries for sweet oranges and grapefruit from Chile, consistent with the provisions of the proposed rule.

Two commenters stated that the list of locations in § 305.2 from which certain commodities may be imported subject to specific approved treatments should be updated. This is because Chile has recently changed its designations for the areas in Chile we consider to be free of fruit flies—two provinces that were previously part of Region 1, Arica and Parinacola, now make up Region 15. Currently, treatment with methyl bromide is approved for citrus from all provinces within Chile that we consider free of fruit flies. This includes all provinces within Chile except the area previously designated as the provinces of Region 1 and the Chanaral Township of Region 3. For that area, where fruit flies are present, treatment with methyl bromide is approved and an additional cold treatment is required.

We agree with the commenter that the table in § 305.2 should be updated to reflect Chile's current geographical designation of provinces. In addition, we published a final rule on July 18, 2007, and effective on August 17, 2007 (72 FR 39482–39528, Docket No. APHIS–2005–0106) that, among other changes, established a process for designating pest-free areas in foreign countries more expeditiously. As part of this process, pest-free areas are listed on the Internet (*http://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/DesignatedPestFreeAreas.pdf*) rather than in the regulations. In order to ensure that the treatments listed in § 305.2(h)(2)(i) reflect our list of fruit fly-free areas in Chile and to accommodate future changes, if any, to those areas, we are removing the words ''all provinces except provinces of Region 1 or Chanaral Township of Region 3'' in the entry for fruits and vegetables from that area in Chile in § 305.2(h)(2)(i) and replacing them with the words ''areas determined to be free of fruit flies in accordance with § 319.56–5''. We are also removing the words ''all provinces of Region 1 or Chanaral Township of Region 3'' in the entry for fruits and vegetables from that area in Chile in § 305.2(h)(2)(i) and replacing them with the words ''areas not determined to be free of fruit flies in accordance with § 319.56–5''.

One commenter stated that, based on regulatory failures experienced in Spain, probit 9 cold treatment alone can be overwhelmed when populations of Medfly are high. Therefore, the commenter stated, the rule needs to augment the required cold treatment with details on monitoring Medfly population levels and maintaining them at low levels.

We are making no change in response to this comment. The probit 9 level of phytosanitary security refers to cold treatment schedules that achieve a post treatment survival rate of no more than 3.2×10^{-5}; this level is generally considered to be the optimal possible without recourse to prohibitively long or potentially damaging treatment schedules. In 2001, shipments of clementines from Spain were intercepted at a U.S. port of entry, and found to be infested with Medfly. Accompanying documentation suggested that the clementines had been treated with an authorized treatment designed to achieve this probit 9 level.

Following consultation with a panel of experts in phytosanitary measures, APHIS determined that the treatment schedule in the regulations at the time did not, in fact, achieve a probit 9 level of security. We also determined that probit 9 security could be achieved by amending the regulations to extend the duration of cold treatment schedules under which fruits are treated for Medfly. We amended the regulations in this manner in an interim rule effective and published in the **Federal Register** on October 22, 2002 (67 FR 63529–63536, Docket No. 02–071–1), and have found these revised treatment schedules to be effective in treating for Medfly.

One commenter opposed the use of irradiation as a phytosanitary treatment.

Irradiation has been proven to be an effective phytosanitary treatment for certain plant pests. Therefore, it is appropriate to provide for its use as an option in mitigating the risk associated with those plant pests. However, we did not propose to require the use of irradiation to mitigate any of the pests associated with sweet oranges and grapefruit from Chile.

Two commenters opposed the rule because they were concerned about the environmental and human health impacts associated with the use of methyl bromide.

The United States Government encourages methods that do not use methyl bromide to meet phytosanitary standards where alternatives are deemed to be technically and economically feasible. As stated in the proposed rule, APHIS would allow either fumigation or a systems approach to mitigate the risk associated with the mite, *B. chilensis*. In addition, in accordance with Montreal Protocol Decision XI/13 (paragraph 7), APHIS is committed to promoting and employing gas recapture technology and other methods whenever possible to minimize harm to the environment caused by methyl bromide emissions.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document. Executive Order 12866 and Regulatory Flexibility Act

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

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities.

We are amending the fruits and vegetables regulations to allow the importation, under certain conditions, of sweet oranges and grapefruit from Chile into the continental United States. Sweet oranges and grapefruit will have to be imported under certain conditions that address the risks associated with the Medfly and *B. chilensis*. Phytosanitary risks must be mitigated using the same approach as is currently employed for the importation of clementines, mandarins, and tangerines from Chile, as set forth in § 319.56–38. Import requirements include orchard control and registration, low prevalence orchard certification, harvest timing, post-harvest processing, phytosanitary inspection, approved cold treatment and, if necessary, methyl bromide treatment in Chile or at the port of entry.

Sweet Orange and Grapefruit Production

The United States is a major producer of citrus fruits. Chile is not yet considered a major producer of citrus, especially when compared to its

neighbors such as Brazil, Uruguay, and Argentina. In 2007, the major world producers of fresh oranges were the United States, Brazil, Mexico, India, and China, while the major exporting countries, in terms of volume, included Spain, South Africa, the United States, Morocco, the Netherlands, and Greece.[2] The major world producers of grapefruit are the United States, China, South Africa, and Mexico, while the major exporting countries, in terms of volume, are the United States, South Africa, Turkey, and the Netherlands.[3] Commercial production of sweet oranges and grapefruit in the continental United States is limited to Arizona, California, Florida, Louisiana, and Texas. Most of the production is located within Florida and California. California is the leading producer of oranges for the fresh market, major varieties of which include Valencia and navel. While Florida produces a larger total quantity of oranges, only 5 percent of the State's orange crop is consumed as fresh fruit. Florida supplies the highest amount of fresh grapefruit, and 45 percent of the U.S. grapefruit crop is utilized as fresh fruit.

TABLE 1—PRODUCTION IN UNITED STATES OF FRESH ORANGES AND GRAPEFRUIT

[In short tons]

	2004/05		2005/06		2006/07		2007/08	
	Orange	Grapefruit	Orange	Grapefruit	Orange	Grapefruit	Orange	Grapefruit
Arizona	12,000	5,000	9,000	3,000	7,000	3,000	10,000	3,000
California	1,845,000	181,000	1,650,000	178,000	1,020,000	161,000	1,853,000	168,000
Florida	333,000	315,000	329,000	294,000	288,000	466,000	264,000	451,000
Texas	52,000	125,000	54,000	128,000	63,000	138,000	58,000	138,000
Total	2,242,000	626,000	2,042,000	601,000	2,378,000	768,000	2,185,000	760,000

Source: Economic Research Service (ERS), U.S. Department of Agriculture (USDA). Fruit and Tree Nuts Situation and Outlook Yearbook, October 2008, combination of table C–21 Oranges: Utilization of production by State and table C–3 Grapefruit: Utilization of production by State. **Note:** Season begins in November for Arizona and California, and in October for Florida and Texas. Quantities for 2007/08 are only totaled until the publication date, October 2008.

In 2007, Chile produced 163,000 short tons of fresh oranges on 8,300 hectares.[4] The Asociación de Exportadores de Chile states that there are no official figures for the production of grapefruit, as grapefruit is a relatively new species in Chile with a small growing area.[5] APHIS estimates, based on the total Chilean citrus export volume, that approximately 5,000 short tons of grapefruit were produced in 2007.

Imports and Exports

In 2007, more than 85 percent of U.S. orange imports came from the countries of South Africa, Australia, Spain, and Mexico, while 98 percent of grapefruit imports came from the Bahamas and Mexico. Table 2 shows the value and quantity of fresh oranges and grapefruit imported into the United States from 2004 to 2007.

TABLE 2—U.S. TOTAL IMPORTS OF FRESH ORANGES AND GRAPEFRUIT

	Total value (in dollars)		Quantity in short tons		Value per short ton	
	Oranges	Grapefruit	Oranges	Grapefruit	Oranges	Grapefruit
2004	$58,785,735	$1,606,153	72,387	15,780	$812.11	$101.78
2005	68,502,310	1,403,260	76,122	15,816	899.90	88.73
2006	80,612,248	2,142,111	81,117	20,890	993.78	102.54
2007	121,497,551	2,948,550	126,890	21,822	957.50	135.12

Source: Global Trade Atlas (2005–2008). Originally reported in kilograms.

The United States is a major exporter of fresh oranges. In the 2007 season, the United States exported around 400,000 short tons of fresh oranges, while imports were around 127,000 short tons.[6] Regarding grapefruit, around 352,000 short tons were exported, and only 22,000 short tons were imported.[7] Clearly, the United States is a large net exporter of both fresh oranges and grapefruit.

Chile's current citrus exports are to Japan, Spain, the Netherlands, and Canada. Between 2000 and 2006, orange exports dramatically increased, from 3,600 short tons to over 28,000 short tons, while grapefruit exports increased from 337 short tons to over 4,300 short tons.[8] Like the United States but on a smaller scale, Chile is a net exporter of sweet oranges and grapefruit. Its share of overseas citrus markets such as that of Japan continues to expand.[9]

Expected U.S. Imports of Sweet Oranges and Grapefruit From Chile

According to the NPPO of Chile, annual exports of sweet oranges and grapefruit to the United States from Chile will total around 110,000 boxes: 93,500 boxes of oranges and 16,500 boxes of grapefruit. The boxes are 17

[2] Harmonized System (HS) code 080510, fresh and dried oranges.

[3] HS code 080540, fresh and dried grapefruit, including pomelos.

[4] Food and Agriculture Organization (FAO) of the United Nations. FAOSTAT, FAO Statistics Production Division 2008, ProdStat, Crops. Originally reported as 142,000 metric tons. *http://faostat.fao.org/site/567/default.aspx.*

[5] *http://www.asoex.cl/.*

[6] Eighty-three percent of total exports were to Canada, Japan, South Korea, Hong Kong, and China.

[7] ERS, USDA. Fruit and Tree Nuts Situation and Outlook Yearbook/FTS–2007/October 2007. Table F–18–Fresh Oranges, Supply and Utilization. Pg. 150. Converted from million pounds using 1 pound = 0.0005 short tons.

[8] Global Trade Atlas (2005–2008). Originally reported in kilograms. 1 kg = 0.0011023 short tons.

[9] USDA. Foreign Agricultural Service. Situation and Outlook for Citrus. February 2006. pg. 6. *http://www.fas.usda.gov/htp/Hort_Circular/2006/02-06/02-20-06%20Citrus%20Feature.pdf.*

kilograms for sweet oranges and 15 kilograms for grapefruit, yielding approximately 1,752.1 short tons of oranges and 272.8 short tons of grapefruit, or about 2,000 short tons overall. This volume of imports from Chile will comprise a relatively small amount compared to total U.S. imports of about 148,000 short tons and domestic production of more than 2.0 million short tons (table 3). The expected imports from Chile will be equivalent to 1.3 percent of U.S. imports of oranges and grapefruit in 2007 and less than 0.1 percent of U.S. production.

TABLE 3—COMBINED QUANTITIES OF U.S. FRESH ORANGES AND GRAPEFRUIT, DOMESTICALLY PRODUCED AND IMPORTED, AND EXPECTED ANNUAL IMPORTS FROM CHILE

	Volume in short tons
Domestic production, 2007	2,070,000
All imports, 2006	148,712
Expected annual imports from Chile	2,025

Seasonal Production and Marketing of Oranges and Grapefruit

Another aspect to consider regarding potential impacts of the proposed rule is the seasonal difference between the citrus industries in the United States and Chile. U.S imports of fresh fruit and vegetables have increased substantially since the 1990s.[10] Southern hemisphere countries are dominant suppliers for off-season fresh fruit. Availability of domestically produced oranges and grapefruit peaks between October and January, gradually decreases from February to June, and is lowest between July and September.[11] In contrast, the highest citrus production in the southern hemisphere is between May and November. Imports from the southern hemisphere complement the U.S. production cycle and help to maintain year-round availability of fresh citrus. Allowing importation of oranges and grapefruit from Chile will expand U.S. consumers' access to fresh produce year round while not directly competing with the production and shipment of domestically produced oranges and grapefruit intended for the fresh fruit market.

[10] USDA, ERS. Increased U.S. Imports of Fresh Fruit and Vegetables. Sophia Huang and Kuo Huang. Sept. 2007.

[11] *http://www.dneworld.com/FreshCitrus/CitrusAvailability/tabid/157/Default.aspx* Chile data from Chilean Fresh Fruit. *http://www.chileanfreshfruit.com/citrus.shtml.*

Small Entity Impact

Businesses most likely to be affected by this rule would be orange and grapefruit producers, for which the Small Business Administration (SBA) small-entity standard is annual sales of not more than $750,000. Production of fresh oranges is classified under North American Industry Classification System (NAICS) code 111310, and grapefruit production is classified within NAICS code 111320, citrus (except orange) groves.[12] In 2002, NASS reported that 1,272 out of 17,727 citrus farmers earned more than $500,000, indicating that at least 93 percent of U.S. citrus farmers are small entities. For California the statistics are similar, with 91 percent of citrus farmers earning under $500,000. These data indicate that the majority of U.S fresh citrus producers are small entities.

Some importers of sweet oranges and grapefruit could be affected by this final rule as well, as it will allow for increased imports during the off-peak domestic citrus season. These industries and their small-entity size standards are: Fresh fruit and vegetable wholesalers (NAICS 424280, less than or equal to 100 employees), wholesalers and other grocery stores (NAICS 445110, less than or equal to $23 million in annual receipts), warehouse clubs and superstores (NAICS 452910, less than or equal to $23 million in annual receipts) and fruit and vegetable markets (NAICS 445230, less than or equal to $6 million in annual receipts). Most entities that comprise these industries are small. Given the relatively small quantity of sweet oranges and grapefruit expected to be imported from Chile, the rule will not have a significant impact on these types of industries.

U.S. exports of sweet oranges and grapefruit far exceed U.S. imports. The expected level of imports of oranges and grapefruit from Chile would be equivalent to 1.3 percent of all U.S. imports in 2007 and less than 0.1 percent of U.S. production that year. Moreover, the imports from Chile would take place during the off season for U.S. domestically produced citrus, and would therefore primarily compete with orange and grapefruit imports from other sources in the southern hemisphere. While U.S producers and importers of sweet oranges and grapefruit are predominantly small according to SBA guidelines, based on available information this final rule will not have a significant economic impact on a substantial number of small entities.

[12] Also includes lemon, lime, mandarin, tangelo, and tangerine.

In the proposed rule, we asked for public comment regarding the potential impact to small U.S. entities outside the continental United States and Hawaii of limiting the importation of clementines, mandarins, and tangerines from Chile to the continental United States (including Alaska) and Hawaii. We did not receive any comments on this issue.

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

Executive Order 12988

This final rule allows sweet oranges and grapefruit to be imported into the continental United States from Chile. State and local laws and regulations regarding sweet oranges and grapefruit imported under this rule will be preempted while the fruit is in foreign commerce. Fresh fruits are generally imported for immediate distribution and sale to the consuming public, and remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. No retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this final rule. The environmental assessment provides a basis for the conclusion that the importation of sweet oranges and grapefruit from Chile under the conditions specified in this rule will not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

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

The environmental assessment and finding of no significant impact may be viewed on the Regulations.gov Web

site.[12] Copies of the environmental assessment and finding of no significant impact are also available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Paperwork Reduction Act

This final rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Lists of Subjects

7 CFR Part 305

Irradiation, Phytosanitary treatment, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements.

7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

■ Accordingly, we are amending 7 CFR parts 305 and 319 as follows:

PART 305—PHYTOSANITARY TREATMENTS

■ 1. The authority citation for part 305 continues to read as follows:

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. In § 305.2, the table in paragraph (h)(2)(i) is amended as follows:

■ a. Under ''Location,'' by revising the title of the first entry for Chile to read as set forth below.

■ b. Under the first entry for Chile, by adding, in alphabetical order, entries for clementines, grapefruit, mandarins, oranges, and tangerines to read as set forth below.

■ c. Under ''Location,'' by revising the title of the second entry for Chile to read as set forth below.

■ d. Under the second entry for Chile, by adding, in alphabetical order, entries for clementines, grapefruit, mandarins, oranges, and tangerines to read as set forth below.

§ 305.2 Approved treatments.

* * * * *

(h) * * *

(2) * * *

(i) * * *

Location	Commodity	Pest	Treatment schedule
* * *	*	* *	*
Chile (Areas determined to be free of fruit flies in accordance with § 319.56–5 of this chapter).			
* * *	*	* *	*
	Clementines	*Brevipalpus chilensis*	MB T104–a–1 or MB T101–n–2–1.
* * *	*	* *	*
	Grapefruit	*Brevipalpus chilensis*	MB T104–a–1 or MB T101–n–2–1.
* * *	*	* *	*
	Mandarins	*Brevipalpus chilensis*	MB T104–a–1 or MB T101–n–2–1.
	Oranges	*Brevipalpus chilensis*	MB T104–a–1 or MB T101–n–2–1.
* * *	*	* *	*
	Tangerines	*Brevipalpus chilensis*	MB T104–a–1 or MB T101–n–2–1.
* * *	*	* *	*
Chile (Areas not determined to be free of fruit flies in accordance with § 319.56–5 of this chapter).			
* * *	*	* *	*
	Clementines	*Brevipalpus chilensis*	MB T104–a–1 or MB T101–n–2–1.
		Ceratitis capitata	CT T107–a.
* * *	*	* *	*
	Grapefruit	*Brevipalpus chilensis*	MB T104–a–1 or MB T101–n–2–1.
		Ceratitis capitata	CT T107–a.
* * *	*	* *	*
	Mandarins	*Brevipalpus chilensis*	MB T104–a–1 or MB T101–n–2–1.
		Ceratitis capitata	CT T107–a.

[12] Go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2007-0115*. The environmental assessment and finding of no significant impact will appear in the resulting list of documents.

Location	Commodity	Pest	Treatment schedule
* * *	*	* *	*
	Oranges	*Brevipalpus chilensis*	MB T104–a–1 or MB T101–n–2–1.
		Ceratitis capitata	CT T107–a.
	Tangerines	*Brevipalpus chilensis*	MB T104–a–1 or MB T101–n–2–1.
		Ceratitis capitata	CT T107–a.
* * *	*	* *	*

* * * * *

PART 319—FOREIGN QUARANTINE NOTICES

■ 3. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 4. Section 319.56–38 is amended as follows:

■ a. By revising the section heading and the introductory text to read as set forth below.

■ b. In paragraph (d)(2), by adding the words ''or finer'' after the words ''200 mesh''.

■ c. In paragraph (d)(3), by removing the word ''chlorine'' and adding the words ''potable water'' in its place.

■ d. In paragraph (e), by removing the words ''Clementines, mandarins, or tangerines'' and adding the words ''Clementines, grapefruit, mandarins, sweet oranges, or tangerines'' in their place.

■ e. In paragraph (f), by removing the words ''Clementines, mandarins, or tangerines'' and adding the words ''Clementines, grapefruit, mandarins, sweet oranges, and tangerines'' in their place.

§ 319.56–38 Citrus from Chile.

Clementines (*Citrus reticulata* Blanco var. Clementine), mandarins (*Citrus reticulata* Blanco), and tangerines (*Citrus reticulata* Blanco) may be imported into the continental United States and Hawaii from Chile and grapefruit (*Citrus paradisi* Macfad.) and sweet oranges (*Citrus sinensis* (L.) Osbeck) may be imported into the continental United States from Chile in accordance with this section and all other applicable provisions of this subpart.

* * * * *

Done in Washington, DC, this 1st day of April 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9–7844 Filed 4–6–09; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 318

[Docket No. APHIS–2007–0052]

RIN 0579–AC70

Revision of the Hawaiian and Territorial Fruits and Vegetables Regulations; Technical Amendment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; technical amendment.

SUMMARY: In a final rule that was published in the **Federal Register** on January 16, 2009 (74 FR 2770–2786, Docket No. APHIS–2007–0052), and effective on February 17, 2009, we revised the regulations governing the interstate movement of fruits and vegetables from Hawaii and the territories. Those regulations do not apply to articles whose interstate movement is regulated under the subpart governing the interstate movement of soil, sand, earth, and plants in growing media from Hawaii and the territories; we neglected to indicate that in the final rule. In this amendment, we are amending the regulations to clearly indicate that the interstate movement of soil, sand, earth, and plants in growing media is governed by the regulations specific to those articles.

DATES: *Effective Date:* April 7, 2009.

FOR FURTHER INFORMATION CONTACT: Mr. David Lamb, Import Specialist, Commodity Import Analysis and Operations, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 734–8758.

SUPPLEMENTARY INFORMATION:

Background

In a final rule that was published in the **Federal Register** on January 16, 2009 (74 FR 2770–2786, Docket No. APHIS–2007–0052), and effective on February 17, 2009, we revised the regulations in 7 CFR part 318 that govern the interstate movement of fruits and vegetables from Hawaii and the territories. The final rule combined the three subparts in 7 CFR part 318 that governed the interstate movement of fruits, vegetables, cut flowers, and certain other articles from Hawaii, Puerto Rico and the U.S. Virgin Islands, and Guam, respectively, into ''Subpart—Regulated Articles From Hawaii and the Territories'' (§§ 318.13–1 through 318.13–25) and established provisions for the interstate movement of those articles.

Within that subpart, § 318.13–1(b) contains a general statement that the Secretary of the U.S. Department of Agriculture has determined that it is necessary to prohibit the interstate movement of cut flowers and fruits and vegetables and plants and portions of plants from Hawaii, Puerto Rico, the U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands except as provided in the regulations or as provided in ''Subpart—Territorial Cotton, Cottonseed, and Cottonseed Products'' (§§ 318.47 through 318.47–4) in 7 CFR part 318. We provided the exception for ''Subpart—Territorial Cotton, Cottonseed, and Cottonseed Products'' because the interstate movement of those plant parts is regulated under that subpart, rather than under the regulations for the interstate movement of fruits and vegetables.

In addition, the regulations in ''Subpart—Sand, Soil, or Earth, with Plants from Territories and Districts'' provide for the interstate movement of certain plants—specifically, plants in approved growing media, conditions for whose movement are found in

§ 318.60(c). Therefore, in the final rule, we should have also included an exception for ''Subpart—Sand, Soil, or Earth, with Plants from Territories and Districts'' in § 318.13–1(b). We are correcting that error in this technical amendment.

List of Subjects in 7 CFR Part 318

Cotton, Cottonseeds, Fruits, Guam, Hawaii, Plant diseases and pests, Puerto Rico, Quarantine, Transportation, Vegetables, Virgin Islands.

■ Accordingly, we are amending 7 CFR part 318 as follows:

PART 318—STATE OF HAWAII AND TERRITORIES QUARANTINE NOTICES

■ 1. The authority citation for part 318 continues to read as follows:

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

■ 2. In § 318.13–1, paragraph (b) is amended by adding the words ''and ''Subpart—Sand, Soil, or Earth, with Plants from Territories and Districts'''' after the word ''Products'''.

Done in Washington, DC, this 1st day of April 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9–7845 Filed 4–6–09; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 905 and 944

[Doc. No. AMS–FV–09–0002; FV09–905–1 IFR]

Oranges, Grapefruit, Tangerines and Tangelos Grown in Florida and Imported Grapefruit; Relaxation of Size Requirements for Grapefruit

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule relaxes the minimum size requirement for white seedless grapefruit grown in Florida and for white seedless grapefruit imported into the United States for the fresh market. The Citrus Administrative Committee (Committee) which locally administers the marketing order for oranges, grapefruit, tangerines, and tangelos grown in Florida (order) recommended this change for Florida grapefruit. The corresponding change in the import regulation is required under section 8e of the Agricultural Marketing Agreement Act of 1937. This rule relaxes the minimum size requirement for domestic shipments, making it the same as required for export shipments. This change is expected to maximize fresh white seedless grapefruit shipments and provide greater flexibility to handlers.

DATES: Effective April 8, 2009; comments received by June 8, 2009 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: *http://www.regulations.gov.* All comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the Internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Marketing Specialist, or Christian D. Nissen, Regional Manager, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (863) 324–3375, Fax: (863) 325–8793, or e-mail: *Doris.Jamieson@ams.usda.gov* or *Christian.Nissen@ams.usda.gov*.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or e-mail: *Jay.Guerber@ams.usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 84 and Marketing Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

This rule is also issued under section 8e of the Act, which provides that whenever certain specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities.

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

This rule relaxes the minimum size requirement for white seedless grapefruit grown in Florida and for white seedless grapefruit imported into the United States for the fresh market. This rule relaxes the minimum size requirement for shipments to the 48 contiguous States and the District of Columbia so the minimum size requirement is the same for both the domestic and export markets. This change is expected to maximize fresh white seedless grapefruit shipments and provide greater flexibility to handlers. The Committee met on December 16,

2008, and unanimously recommended this change.

Section 905.52 of the order provides authority to establish grade and size requirements for Florida citrus. Section 905.306 of the order specifies, in part, the minimum size requirements for Florida citrus. Such requirements for domestic shipments are specified in § 905.306 in Table I of paragraph (a). Minimum grade and size requirements for white seedless grapefruit imported into the United States are currently in effect under § 944.106.

The current minimum size requirement for domestic shipments of white seedless grapefruit is 3 9/16 inches. This rule relaxes the minimum size requirement from 3 9/16 inches (size 48) to 3 5/16 inches (size 56).

Currently, white seedless grapefruit shipped to the domestic market must meet a more restrictive minimum size requirement than fruit shipped to the export market. The more restrictive size requirement for domestic shipments was established in response to market preference for larger sized fruit and to help maintain better grower prices for the larger sizes. The industry believed that absent the larger minimum size requirement the domestic market would be oversupplied with small sized, lower-priced fruit, which would reduce the price for the larger sizes. Conversely, the export market favored the smaller sized fruit. Therefore, establishing the different minimum size requirements satisfied both markets.

However, over the last decade, the total supply of white seedless grapefruit has declined. Total production of white seedless grapefruit grown in Florida during the 1999–2000 season was approximately 20,510,000 1 3/5 bushel boxes compared to 8,539,000 boxes produced during the 2007–08 season. This represents a 58 percent decrease in Florida white seedless grapefruit production from 1999 to 2008.

Shipments of fresh white seedless grapefruit have also been declining. Since the 1999–2000 season, fresh shipments have declined by more than 70 percent. During the 2007–08 season, domestic shipments of white seedless grapefruit accounted for only one percent of total fresh grapefruit shipments. The export markets have traditionally been good markets for size 56 white seedless grapefruit. However, fresh shipments of white seedless grapefruit to export markets have also declined.

With the changes in supply and demand, the Committee believes the larger minimum size requirement for domestic shipments is no longer needed. Further, Committee members agreed that with the demand for white seedless grapefruit declining, handlers need to be able to ship fruit to whichever markets become available. However, the different minimum size requirements for domestic and export markets have presented problems for handlers trying to take advantage of available markets. Fruit packed for the export market cannot be shipped to the domestic market without first being repacked to ensure it meets the more restrictive size requirements. Repacking the fruit is a cost burden on handlers and reduces returns to growers.

Consequently, the Committee recommended that the minimum size requirement for domestic shipments of white seedless grapefruit be relaxed from size 48 to size 56. This change makes the minimum size requirement the same for both the domestic and export markets. Having the same minimum size requirement for both domestic and export shipments will make it easier to move fruit to available markets without having to repack fruit to meet the differing size requirements. This reduces costs and provides greater flexibility for handlers. In addition, this change makes more fruit available for shipment to the domestic market helping to maximize fresh shipments, which may increase grower returns.

Section 8e of the Act provides that when certain domestically produced commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must met the same or comparable grade, size, quality, and maturity requirements. Since this rule changes the minimum size requirement under the domestic handling regulations, a corresponding change to the import regulations must also be made.

Minimum grade and size requirements for grapefruit imported into the United States are currently in effect under § 944.106. This change relaxes the minimum size requirement for imported white seedless grapefruit from 3 9/16 inches (size 48) to 3 5/16 inches (size 56). The relaxation in the minimum size requirement also has a beneficial impact for importers of white seedless grapefruit. This change allows size 56 white seedless grapefruit to be shipped to the United States increasing the amount of fruit available for shipment to the fresh market, thus benefiting importers.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 40 Florida grapefruit handlers subject to regulation under the marketing order and about 8,000 citrus producers in the production area. There are approximately 10 grapefruit importers. Small agricultural service firms, which include grapefruit handlers and importers, are defined by the Small Business Administration (SBA) as those having annual receipts of less than $7,000,000, and small agricultural producers are defined as those whose annual receipts are less than $750,000 (13 CFR 121.201).

According to industry and Committee data, the average annual f.o.b. price for fresh Florida white seedless grapefruit during the 2007–08 season was $10.30 per 4/5-bushel carton, and total fresh shipments were around 3.3 million cartons. Based on the average f.o.b. price, a majority of Florida white seedless grapefruit handlers could be considered small businesses under SBA's definition. In addition, based on production and grower prices reported by the National Agricultural Statistics Service and the total number of Florida citrus producers, the average annual producer revenue is less than $750,000. Information from the Foreign Agricultural Service, USDA, indicates that the dollar value of imported fresh grapefruit ranged from approximately $2.14 million in 2006 to $2.06 million in 2008. Using these values, all importers would have annual receipts of less than $7 million for grapefruit. Therefore, the majority of handlers, producers and importers of white seedless grapefruit may be classified as small entities.

The Bahamas, Mexico, and Israel are the major grapefruit producing countries exporting grapefruit to the United States. In 2008, shipments of grapefruit imported into the United States totaled 14,257 metric tons. The Bahamas accounted for 10,362 metric tons, 2,741 metric tons were imported from Mexico, and 104 metric tons arrived from Israel.

This rule relaxes the minimum size requirement for white seedless grapefruit grown in Florida and for white seedless grapefruit imported into

the United States for the fresh market. This rule relaxes the minimum size requirement for domestic shipments to the 48 contiguous States and the District of Columbia from 3 9/16 inches (size 48) to 3 5/16 inches (size 56) making the minimum size requirement the same for both the domestic and export markets. This rule also relaxes the minimum size requirement for imports of fresh white seedless grapefruit from 3 9/16 inches (size 48) to 3 5/16 inches (size 56). This change is expected to maximize fresh white seedless grapefruit shipments and provide greater flexibility to handlers. Authority for this action is provided in § 905.52. This rule amends the provisions of §§ 905.306 and 944.106. The Committee unanimously recommended this change at its December 16, 2008, meeting. The change in the import regulation is required under section 8e of the Act.

This action is not expected to increase costs associated with the order requirements or the grapefruit import regulation. Rather, this action represents a cost savings for handlers and has the potential to increase industry returns. This change makes the minimum size requirement the same for both the domestic and export markets. Having the same minimum size requirement for both domestic and export shipments will make it easier to move fruit to available markets without having to repack fruit to meet the differing size requirements. This reduces costs and provides greater flexibility for handlers. The Committee believes this change will help improve the marketing of white seedless grapefruit and maximize shipments to fresh market channels.

The on-tree price for processed white seedless grapefruit for the 2007–08 season was $0.33 per box compared to $10.05 per box for fruit sold to the fresh market. With limited returns for processed grapefruit, reducing the minimum size requirement for the domestic market could shift an additional volume of small sizes to the fresh market. This will help maximize fresh shipments and should increase industry returns. Importers will also benefit from this change, as a greater volume of fruit will be available for shipment to the United States. The opportunities and benefits of this rule are expected to be equally available to all grapefruit handlers, growers, and importers, regardless of their size.

The only alternative to this action discussed by the Committee was to maintain the current minimum size requirement for domestic shipments. However, the Committee agreed that relaxing the minimum size would make additional white seedless grapefruit available for the fresh market, would provide more flexibility to handlers, and could result in better returns. Therefore, the alternative was rejected.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large grapefruit handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

AMS is committed to complying with the E–Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Further, the Committee's meeting was widely publicized throughout the Florida citrus industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the December 16, 2008, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. Finally, interested persons are invited to submit comments on this interim final rule, including the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/AMSv1.0/ams.fetchTemplateData.do?template=TemplateN&page=MarketingOrdersSmallBusinessGuide*. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

This rule invites comments on a change to the minimum size requirements currently prescribed under the Florida citrus marketing order and the import requirements for grapefruit. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this interim final rule.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The shipping season for white seedless grapefruit has already started; (2) this rule represents a relaxation of the minimum size requirements; (3) the Committee unanimously recommended this change at a public meeting and interested parties had an opportunity to provide input; and (4) this rule provides a 60-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects

7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

■ For the reasons set forth in the preamble, 7 CFR parts 905 and 944 are amended as follows:

■ 1. The authority citation for 7 CFR parts 905 and 944 continues to read as follows:

Authority: 7 U.S.C. 601–674.

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

■ 2. In § 905.306, Table I in paragraph (a) is amended by revising the entry for ''Seedless, except red'' under ''Grapefruit,'' to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine and Tangelo Regulation.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
* * *	* * *	* * *	
Grapefruit.			
* * *	* * *	* * *	
Seedless, except red	On and after 9/01/94	U.S. No. 1	3 5/16
* * *	* * *	* * *	

* * * * *

PART 944—FRUITS; IMPORT REGULATIONS

■ 3. In § 944.106, the table in paragraph (a) is amended by revising the entry for ''Seedless, except red'' to read as follows:

§ 944.106 Grapefruit import regulation.

(a) * * *

Grapefruit classification	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
* * *	* * *	* * *	
Seedless, except red	On and after 9/01/94	U.S. No. 1	3 5/16

* * * * *

Dated: April 1, 2009.

Robert C. Keeney,

Acting Associate Administrator, Agricultural Marketing Service.

[FR Doc. E9–7822 Filed 4–6–09; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Parts 1421 and 1434

RIN 0560–AH87

Marketing Assistance Loans and Loan Deficiency Payments

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Commodity Credit Corporation (CCC) is revising regulations as required by the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill) to administer the Marketing Assistance Loans (MAL) and Loan Deficiency Payments (LDP) programs for wheat, feed grains, soybeans, other oilseeds, peanuts, pulse crops, honey, wool and mohair. The 2008 Farm Bill generally extends the existing programs with some changes that are implemented in this rule. The amendments in this rule will add large chickpeas, beginning with the 2009 crop year, to the list of pulse crops eligible for assistance and provide separate rates for long and medium grain rice beginning with the 2008 crop year. The addition of large chickpeas may increase the number of farmers and ranchers who may receive FSA and CCC program benefits. The amendments will also, in addition, to other amendments to the old rule and clarifications, allow producers to store collateral in Federally and State-licensed warehouses that do not have a CCC storage agreement, which may reduce redundant licensing costs for warehouse operators while allowing producers a greater choice of warehouses.

DATES: *Effective Date:* April 6, 2009.

FOR FURTHER INFORMATION CONTACT: Jose R. Gonzalez, Program Manager, Marketing Assistance Loans and Loan Deficiency Payment Programs or Tonye B. Gross, Program Manager, Peanut Program, Price Support Division, FSA/USDA, STOP 0512, 1400 Independence Ave. SW., Washington, DC 20250–0512; telephone (202) 690–2534; or (202) 720–4319, facsimile (202) 690–3307; e-mails: *Jose.Gonzalez@wdc.usda.gov* or *Tonye.Gross@wdc.usda.gov*. Persons with disabilities who require alternative means of communication (Braille, large print, audio tape, etc.) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Background

The 2008 Farm Bill extends MAL and LDP programs for the 2008 through 2012 crop years. The 2008 Farm Bill generally extends the existing programs, with some minor changes that are implemented in this rule. In some cases, the 2008 Farm Bill gives the Secretary discretion to select among different policy options; this rule implements such discretionary changes. This rule also makes numerous housekeeping changes to make administrative improvements, correct typographical errors, remove expired regulations, and improve organization.

Producers of eligible commodities that are eligible for loans can request MALs or LDPs on their commodities. MALs and LDPs are available to eligible producers beginning with harvest or shearing season and extending through the marketing year. MALs are 9-month loans with the commodity pledged as collateral for the loan. MALs and LDPs must be requested on or before the final

loan availability date for the applicable commodity. Producers may repay the MAL at a rate that is the lesser of the loan rate plus interest or alternative repayment rates as determined and announced by the Department of Agriculture (USDA). MALs support America's farmers and ranchers in several ways. They provide producers with interim financing at and during the harvest or shearing season. They provide significant income support when market prices are below statutory loan rates. They facilitate the orderly marketing and distribution of loan eligible commodities throughout the year, giving the producer the flexibility on when to sell the crop. With MALs, the producer doesn't have to sell the crop immediately after harvest, when prices are often relatively low. Producers can settle their loan during the 9-month period by either selling the commodity and repaying the loan or by forfeiting the commodity to the CCC.

As an alternative to MAL, if a producer agrees to forgo MAL, the producer may obtain LDP on their crop, if such LDP is currently available for the applicable commodity and the producer is eligible for MAL. LDPs allow the producer to receive a payment when the alternative repayment rate posted for a commodity is below the loan rate for that commodity. The payment is the established loan rate for the applicable loan commodity less the repayment rate multiplied by the eligible quantity of the commodity. Similar to the MAL program, LDPs provide price income support to producers so they do not have to sell their commodities when prices are low.

The specific statutory changes required by the 2008 Farm Bill and discretionary changes affecting the MAL and LDP programs that are implemented in this rule are described below.

Eligible Loan Commodities

Prior to the 2008 Farm Bill, MALs and LDPs were authorized for wheat, feed grains, soybeans, other oilseeds, peanuts, pulse crops, honey, wool and mohair. Feed grains included corn, grain sorghum, barley, oats and rice. Other oilseeds included sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, crambe, and sesame seed. Pulse crops included lentils, dry peas and small chickpeas. The 2008 Farm Bill reauthorizes MALs and LDPs for all the existing eligible commodities. However, it has further defined the feed grain category and expanded the pulse crop category. Rice is now further defined as long grain rice and medium grain rice, with rates listed by type. Medium grain rice also includes short grain rice. Beginning with the 2009 crop year, large chickpeas will be included as an eligible pulse crop and will be eligible for MAL and LDP. This rule changes sections 1421.1, ''Applicability,'' 1421.3, ''Definitions,'' 1421.5, ''Eligible Commodities,'' and 1421.9, ''Basic Loan Rates,'' to include large chickpeas beginning with the 2009 crop year. This rule changes sections 1421.3, 1421.5, and 1421.10, ''Market Rates'' (renamed as ''Loan Repayment Rates''), to specify provisions for long grain and medium grain rice. This rule amends section 1421.7, ''Requesting Marketing Assistance Loans and Loan Deficiency Payments,'' to add a final loan availability date for crambe and sesame seed.

Other Eligibility Requirements for Producers

The 2008 Farm Bill changes eligibility provisions by removing the eligibility of states, political subdivisions, and their agencies to receive MALs or LDPs. This rule removes those entities from section 1421.4, ''Eligible Producers.''

Beneficial Interest

As used in 7 CFR part 1421, beneficial interest in a commodity means that control of the commodity and title to the commodity remain with the producer. Beneficial interest requirements remain largely unchanged for all loan commodities in this rule, and producers must retain beneficial interest in the commodity offered as collateral for a MAL or LDP. We are amending section 1421.6, ''Beneficial Interest'', to clarify that delivery of a commodity to a feed or grain bank will result in the loss of beneficial interest. This rule also amends section 1421.6 to clarify that if deferred price, forward, or price-later contract is used, fulfillment of the delivery requirements of the contract or receipt of payment for the contract will result in the loss of beneficial interest as of the earlier of those events.

Average Crop Revenue Election (ACRE) Program

This final rule implements a provision of the new Average Crop Revenue Election (ACRE) Program established by the 2008 Farm Bill. Under the ACRE program, during each of the 2009 through 2012 crop years, the applicable MAL rates for wheat, feed grains, soybeans, other oilseeds, peanuts, and pulse crops, will be reduced by 30 percent for commodities on a farm where producers make the irrevocable decision to have the farm participate in ACRE. This rule amends section 1421.9, ''Basic Loan Rates,'' to include provisions for this new program. The regulations for the ACRE program are being established through a separate rulemaking that will amend 7 CFR part 1412.

Commodity Certificate Availability Will Be Phased Out

Commodity certificates are currently available to producers to exchange for collateral for MAL. The exchange rate is the applicable loan repayment rate on the date the commodity certificate is purchased. The 2008 Farm Bill reauthorizes commodity certificates only through the 2009 crop year. The authority to make commodity certificates available to producers will terminate effective with the ending of the 2009 crop year. Therefore, this rule amends the regulations to remove provisions for the availability of commodity certificates for crop years after 2009.

Adjusted Gross Income and Payment Limitations

For the 2008 crop only, the current payment limit on marketing loan gains and LDPs remains at $75,000 per person and the three-entity rule is also retained. Under the current three-entity rule, an individual can receive a full payment directly and up to a half payment, indirectly, for each of two additional entities. Producers with annual adjusted gross income over $2.5 million, averaged over 3 years, are not currently eligible for payments, unless more than 75 percent of the adjusted gross income is from agriculture. For 2009 through 2012 crop years, payment limitation and adjusted gross income requirements will be modified as specified in sections 1603 and 1604 of the 2008 Farm Bill. Starting with the 2009 crop year, CCC will no longer limit the gains from marketing assistance loans and loan deficiency payments. (**Note:** Payment limitation rules are established in 7 CFR part 1400 and not within various commodity regulations, such as these regulations. CCC is implementing changes to the payment limitation provisions through a separate rulemaking.) This rule amends section 1421.409, ''Monitoring Payment Limitations,'' to state that payment limitations are not applicable for the 2009 through 2012 crop years for designated marketing associations for peanuts.

Warehouse Licensing Requirements

Current regulatory provisions require eligible commodities offered as collateral for MALs to be stored in an on-farm storage structure or a commercial warehouse approved by CCC. To be a CCC-approved warehouse,

warehouses must enter into a CCC storage agreement. This rule removes an exception that allowed the use of unlicensed warehouses in certain circumstances, because the 2008 Farm Bill removed that provision. However, this rule amends the regulations to allow the use of State and Federally licensed warehouses that do not have a CCC storage agreement. This change is not required by the 2008 Farm Bill; however, this will benefit warehouse operators and producers without increasing financial risk for CCC. This rule amends multiple sections to remove references to ''approved'' warehouses and add references to ''authorized'' warehouses instead.

Historically, approved warehouses have been warehouse operators who have entered into storage agreements with CCC that set forth terms and conditions regarding: (1) Financial aspects of the warehouse; (2) rates that are applicable to the storage of CCC owned inventory and CCC loan collateral; (3) handling and delivery charges with respect to these commodities; and (4) related storage issues. These agreements were required to protect CCC interests because, prior to the authorization and use of MALs, producers tendered over 75 percent of the annual production of some crops to CCC in some years.

Most States, as well as USDA, have a warehouse licensing program for the storage of agricultural commodities. In most States, an entity must have a State or Federal license to engage in storing these commodities. These licensed entities issue warehouse receipts that document ownership of commingled commodities. In those States that do not have a licensing program, warehouses must follow State laws relating to bailment and storage. The State laws relating to bailment and storage vary from State to State.

In general, non-licensed entities in States with licensing programs may not store agricultural commodities on behalf of producers, but may purchase commodities from producers. Commercial feed lots, ethanol plants, wool pools, and feed banks that are typical end users of the commodity are not licensed warehouses. This rule removes a provision in the regulations that allows the use of unlicensed warehouses for storing MAL collateral, because, as indicated, that is no longer authorized under the 2008 Farm Bill.

Starting with the 2009 crop year and throughout the remaining years covered by the 2008 Farm Bill, CCC will no longer require a Federally licensed warehouse operator to also maintain a CCC storage agreement, except for peanuts. Warehouses licensed by USDA under the United States Warehouse Act must meet conditions to obtain a Federal license, which exceed those that must be met for obtaining a CCC storage agreement. While the CCC storage agreement specifies storage rates that CCC will pay in the unlikely event the commodity is forfeited to CCC, CCC moves commodities it obtains when forfeited into the market as quickly as possible. Thus, CCC incurs minimal storage costs. As of July 2008, CCC's commodity inventories have been depleted. Accordingly, CCC has determined that requiring a Federally licensed warehouse operator to also maintain a CCC storage agreement provides no additional protection to CCC's interests as a lender in the administration of the MAL programs and, therefore, CCC will no longer require such warehouse operators to also maintain a storage agreement. However, CCC may reserve the right to continue to utilize storage agreements in those instances where it is engaged in the long-term storage of commodities.

In a State with an operating warehouse licensing program, CCC will no longer require the use of a CCC storage agreement for a State-licensed warehouse. In such States, especially those with grain indemnity funds that provide cash payments to depositors in the event of the insolvency of the warehouse operator, CCC already has adequate protection as a secured lender. There are redundant costs to the warehouse operator in meeting and maintaining compliance with both the State license and the CCC storage agreement. Even without the storage agreement, CCC will still have clear title to the commodity in the event of the insolvency of the warehouse operator. If the loan is repaid, CCC has no interest at stake. Thus, for State-licensed warehouses, a CCC storage agreement will not be required. However, CCC may reserve the right to continue to utilize storage agreements in those instances where it is engaged in the long-term storage of commodities.

For warehouse operators in the small number of States that do not have warehouse licensing programs, CCC may require these entities to execute a CCC storage agreement before a producer may obtain a MAL with respect to commodities stored in such warehouse, but may require that the warehouse be approved in advance. A list of approved local warehouses may be obtained from FSA State and county offices.

These changes will allow producers to obtain warehouse-stored loans at all warehouses; both State and Federally licensed, which expands the amount of storage available for use by producers who wish to obtain such loans. This is particularly beneficial since commercial warehouse capacity has declined over the past 15 years while the amount of commodities produced in that time has increased. Marketing patterns have changed during this time, for example, many buyers have turned to a ''timed-to-arrive'' basis and do not maintain large stocks of commodities at their facilities. These regulatory changes are responsive to changing market conditions.

For peanuts, the 2008 Farm Bill requires that the facility in which peanuts for MAL are stored meets certain conditions set by the Secretary and that the facility agrees to provide storage on a non-discriminatory basis.

Wool and Mohair

The 2008 Farm Bill reauthorizes provisions allowing producers to pledge wool or mohair as collateral to secure a nonrecourse MAL. This rule makes minor changes specific to those items, including changing references to update specific crop years and changing the basis on which the Secretary will announce alternative repayment rates from ''periodically'' to weekly in section 1421.10, ''Market Rates.'' This rule also changes the title of the section on ''Market Rates'' to ''Loan Repayment Rates.''

Peanuts

The 2008 Farm Bill reauthorizes most of the provisions for peanuts, with two major exceptions. First, the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171, commonly known as the 2002 Farm Bill) required CCC for a time to pay for the storage, handling and other associated costs for peanuts pledged under a MAL. This authority terminated with the beginning of the 2007 crop of peanuts. Therefore, for the 2007 crop, CCC required a peanut warehouse receipt showing payment of storage charges through the loan period, and reduced the loan amount for any unpaid storage charges. The 2008 Farm Bill, beginning with the 2008 crop, requires CCC, at the time the peanuts are placed in MAL, to pay for handling and other associated costs (but not storage costs) for peanuts. The 2008 Farm Bill requires the repayment of these costs when MALs are redeemed. Second, the 2008 Farm Bill authorizes CCC to pay storage, handling, and other associated costs for all peanut MALs that achieved maturity and are forfeited to CCC as a settlement of the MAL. This rule makes changes to section 1421.10, ''Loan Repayment Rates,'' to implement

these specific provisions of the 2008 Farm Bill.

National Loan Rates

The 2008 Farm Bill specifies the national loan rates for the 2008 through 2012 crop years for the eligible loan commodities. The loan rates specified by the 2008 Farm Bill are as follows:

Commodity	2008 Crop year	2009 Crop year	2010–2012 Crop years
Wheat	$2.75/bu	$2.75/bu	$2.94/bu.
Corn	$1.95/bu	$1.95/bu	$1.95/bu.
Grain Sorghum	$1.95/bu	$1.95/bu	$1.95/bu.
Barley	$1.85/bu	$1.85/bu	$1.95/bu.
Oats	$1.33/bu	$1.33/bu	$1.39/bu.
Long Grain Rice	$6.50/cwt	$6.50/cwt	$6.50/cwt.
Medium Grain Rice	$6.50/cwt	$6.50/cwt	$6.50/cwt.
Soybeans	$5.00/bu	$5.00/bu	$5.00/bu.
Other Oilseeds	$9.30/cwt	$9.30/cwt	$10.09/cwt.
Peanuts	$355.00/ton	$355.00/ton	$355.00/ton.
Dry Peas	$6.22/cwt	$5.40/cwt	$5.40/cwt.
Lentils	$11.72/cwt	$11.28/cwt	$11.28/cwt.
Small Chickpeas	$7.43/cwt	$7.43/cwt	$7.43/cwt.
Large Chickpeas	N/A	$11.28/cwt	$11.28/cwt.
Graded Wool	$1.00/lb	$1.00/lb	$1.15/lb.
Nongraded Wool	$0.40/lb	$0.40/lb	$0.40/lb.
Mohair	$4.20/lb	$4.20/lb	$4.20/lb.
Honey	$0.60/lb	$0.60/lb	$0.69/lb.

The 2008 through 2009 crop year loan rates for MALs remained the same for wheat, feed grains, soybeans, other oilseeds, peanuts, wool and mohair from those established during the last year of the 2002 Farm Bill in 2007. The 2010 through 2012 loan rates for MALs for wheat, barley, oats, other oilseeds, graded wool and honey are increased as shown in the previous table. The 2008 Farm Bill establishes two loan rates for rice. Rice is divided into a long grain rice loan rate and medium short grain loan rate. We are amending section 1421.5, ''Eligible Commodities,'' to reflect that the determination of class, grade, and other quality factors for rice will be based on the U.S. Standards for Rice. Large chickpeas, beginning with the 2009 crop year, are now included as a pulse crop. The 2008 Farm Bill removed a pulse crop loan rate provision requiring that the loan rates be based upon U.S. feed grade for dry peas and U.S. number 3 grade for lentils and small chickpeas. Effective with the 2008 crop (with the 2009 crop for large chickpeas), pulse crop loan rates will reflect values of U.S. grade number 1.

Adjustments of Loans (Premiums and Discounts)

The 2008 Farm Bill reauthorizes the provisions authorizing adjustments of loan rates for any eligible loan commodity under this regulation, except for rice, for differences in grade, type, quality, location and other factors. Long grain and medium grain rice loan rates will only be adjusted for grade and quality (including milling yields). To the extent practicable, FSA will make adjustments to ensure that weighted average base county loan rates are consistent and reflect current market conditions. Specifically, for the 2008 crop year, USDA will continue to apply appropriate premiums and discounts to loan rates in the county where the commodity is stored. On a per-unit basis, premiums are added to and discounts are subtracted from the loan rate when the MAL is made for the 2008 crop year. If a producer chooses to repay a MAL, these same premiums and discounts applied to the loan rate at loan making are also applied to the loan repayment rate.

Beginning with the 2009 crop year, except for peanuts, and throughout the remaining years of the 2008 Farm Bill, CCC will no longer apply premiums and discounts to loan rates at loan making time. CCC will apply premiums and discounts at the time of loan settlement or loan forfeiture instead. Producers will settle their outstanding nonrecourse MAL during the loan period by repaying MAL at applicable repayment rate or upon maturity by forfeiting the commodity to CCC. At forfeiture, the applicable loan rate in effect for the commodity will be adjusted by premiums and discounts. This rule amends sections 1421.9, ''Basic Loan Rates,'' and 1421.112, ''Loan Settlement,'' to implement these changes that are required by the 2008 Farm Bill.

Loan Repayment Rates

Currently, USDA permits eligible producers to repay MALs on wheat, feed grains (except rice), soybeans, other oilseeds (except confectionary and each other kind of sunflower seed (other than oil sunflower seed)) at any time during the loan period at a rate that is the lesser of: (1) Loan rate plus accrued interest or (2) a rate determined by the Secretary that would minimize forfeitures, accumulation of stocks, storage costs, impediments to the market and discrepancies in benefits across State and county boundaries. For rice, MALs are repaid at lesser of: (1) Loan rate plus accrued interest or the adjusted world price (AWP). The 2008 Farm Bill maintains the two existing loan repayment rate options, and mandates that the Secretary add a third loan repayment option that allows the loan repayment rate to be based on average market prices during the preceding 30-day-period. For long grain rice and medium grain rice, the 2008 Farm Bill requires USDA to permit eligible producers to repay MALs at any time during the loan period at a rate that is the lesser of: (1) Loan rate plus accrued interest or (2) the prevailing world market price adjusted to U.S. quality and location, and often referred to as the adjusted world price or AWP. For peanuts, the 2008 Farm Bill requires USDA to permit eligible producers to repay MALs at any time during the loan period at a rate that was the lesser of: (1) Loan rate plus accrued interest or (2) a rate determined by the Secretary that would minimize forfeitures, accumulation of stocks, storage costs, and impediments to the market. For confectionary and other kinds of sunflower seeds, the 2008 Farm Bill requires USDA to permit eligible producers to repay MALs at any time during the loan period at a rate that was the lesser of: (1) Loan rate plus accrued

interest or (2) a repayment rate established for oil sunflower seed. This rule amends section 1421.10, ''Loan Repayment Rates,'' to reflect these changes required by the 2008 Farm Bill.

Additionally, the 2008 Farm Bill provides authority to temporarily adjust loan repayment rates. In the event of a severe disruption to marketing, transportation, or related infrastructure, USDA may modify the loan repayment rate applicable to eligible commodities. Any adjustments made to the applicable eligible commodity loan repayment rate will be short-term and temporary basis, as determined by USDA. Such adjustments will be announced; they will not be in the regulations.

Payments In Lieu of Loan Deficiency Payments for Grazed Acreage

The 2008 Farm Bill reauthorizes provisions for grazed acreage LDP. The 2002 Farm Bill provided a payment program for producers who grazed livestock on land that may otherwise be used to produce LDP eligible crops, also known as ''graze-out'' provisions. Producers who would be eligible for a wheat, barley, oats, or triticale LDP but instead use those planted crops to graze livestock will be eligible for LDPs if they agree to forgo harvesting of that acreage. We are making minor amendments to 1421.304, ''Payment Amount'', to clarify grazing payment provisions and to remove obsolete provisions for previous crop years.

Honey

The 2008 Farm Bill reauthorizes and extends existing honey provisions. The existing way of determining honey producers' eligibility and beneficial interest is to require them to comply with the provisions in both 7 CFR parts 1434 and 1421. That policy is not changing, although we are clarifying that policy by stating it explicitly in the regulations. New provisions in this rule for 7 CFR part 1421 also apply to honey producers even if they are not specifically addressed under 7 CFR part 1434, for example, changes discussed in this preamble for other eligibility requirements for producers, beneficial interest, and adjusted gross income and payment limitations. The increase in the national loan rate effective for 2010 through 2012 crop years (which is not in the regulations but is specified in this preamble and in the 2008 Farm Bill) and the provision allowing the Secretary to temporarily adjust loan repayment rates in the event of a severe disruption to marketing, transportation, or related infrastructure also apply to honey. This rule removes section 1434.22, ''Handling Payments and Collections not Exceeding $9.99,'' to be consistent with part 1421. This rule also amends section 1434.15, ''Personal Liability,'' to reduce liquidated damages (penalties) for violations to be consistent with similar provisions in part 1421.

Other Miscellaneous Changes

This rule amends section 1421.104 to state that CCC will conduct lien searches on all commodities pledged as collateral for amounts greater than $50,000, which is an increase from $25,000 in the current regulations. Field offices should be able to process loan applications more quickly if lien searches are limited to loans over $50,000. CCC will still have the discretion to conduct lien searches for any loan amount when it is determined that CCC's interest may be at risk.

This rule clarifies section 1421.104 about assessment authority language. Commodity assessments, if applicable, are deducted from MAL proceeds at loan making and furnished to appropriate National or State assessment authorities.

CCC is also making a number of housekeeping changes to clean up the regulations. For example, we are consolidating all the definitions and abbreviations that are currently in separate sections for each subpart into one section for this part. In general, CCC is making changes to add clarity, make administrative improvements, correct typographical errors, add consistency with current CCC and industry practices, remove expired regulations, improve internal consistency, and improve organization. These changes do not represent substantive policy or administrative changes.

Notice and Comment

These regulations are exempt from notice and comment provisions of the Administrative Procedure Act (5 U.S.C. 553), as specified in section 1601(c) of the 2008 Farm Bill, which requires that the regulations be promulgated and administered without regard to the notice and comment provisions of Section 553 of title 5 of the United States Code or the Statement of Policy of the Secretary of Agriculture effective July 24, 1971, (36 FR 13804) relating to notices of proposed rulemaking and public participation in rulemaking.

Executive Order 12866

This final rule is economically significant according to Executive Order 12866 and has been reviewed by the Office of Management and Budget (OMB). A cost-benefit assessment of the changes made by this rule and is summarized below and is available from the contact above.

Summary of Economic Impacts

The Cost-Benefit Assessment includes discussions of statutorily-mandated changes as well as discretionary changes for the MAL and LDP Programs.[1] The projected impacts from the use of discretionary authority are expected to be relatively minor. Projected outlays impacts were addressed in the cost benefit analysis completed for the final rule for the Direct and Counter-cyclical Payment and Average Crop Revenue Election Programs, which was published on December 29, 2008 (73 FR 79284–79306). The impacts from the regulatory changes addressed in the two rules are inherently interrelated and not addressed as individual impacts.

The discretionary changes are:

- *Premiums and discounts:* With exception of cotton and peanuts, discontinue applying premiums and discounts at the time warehouse-stored loans are made, and instead apply them only if loan quantities are forfeited;
- *Loan repayment rates:* For applicable commodities, discontinue using prices from a single day to establish loan repayment rates, and instead use the lesser of a statutorily-mandated 30-day moving average of market prices adjusted for location and a discretionary 5-day average of applicable terminal prices backed off to the local level to establish alternative loan repayment rates;
- *Lien searches:* Raise the minimum loan principal amount for which lien searches are required from $25,000 to $50,000; and
- *Uniform Grain and Rice Storage Agreements (UGRSA's):* Discontinue the widespread use of UGRSA's with applicable warehouse operators and instead apply such agreements on a case-by-case basis.

The premium and discount, lien search, and UGRSA changes are expected to save some staff time, and the staff time will instead be devoted to new tasks (for example, administering the new ACRE program provisions) or

[1] Outlay impacts from 2008–Farm-Bill-mandated changes regarding MAL and LDP programs are discussed in the cost benefit assessment, but projected outlays impacts are addressed in the cost benefit assessment associated with the statutory and regulatory changes for the Direct and Counter-cyclical Payment and Average Crop Revenue Election Programs (7 CFR part 1412). In addition, the economic and budgetary impacts of mandatory changes, including changes in national average loan rates, are discussed in that cost benefit assessment as well. Statutory and regulatory changes associated with payment limitations, direct attribution, and adjusted gross income eligibility criteria are evaluated in the cost benefit assessment that accompanies that regulation (7 CFR part 1400).

reducing backlogs (for example, inspecting all Federally-licensed warehouses at least once annually under provisions of the United States Warehouse Act (USWA)). Use of discretionary authority in implementing the new loan repayment rate provisions is expected to reduce the day-to-day (or, as applicable, week-to-week) variability in loan repayment rates for wheat, feed grains, oilseeds, pulses, wool, and mohair. The use of a 30-day average price and a 5-day average price in loan repayment rate determinations is not expected to affect outlays. However, the mandated use of a 30-day average price will cause the repayment rate determination to be less transparent.

Federal Assistance Programs

The title and number of the Federal assistance program in the Catalog of Federal Domestic Assistance to which this final rule applies is 10.051—Commodity Loans and Loan Deficiency Payments.

Regulatory Flexibility Act

This rule is not subject to the Regulatory Flexibility Act because CCC is not required to publish a notice of proposed rulemaking for this rule.

Environmental Review

The environmental impacts of this rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and FSA regulations for compliance with NEPA (7 CFR part 799). FSA has determined that this rule would not constitute a major Federal action significantly affecting the quality of the human environment, and therefore, no environmental assessment or environmental impact statement will be prepared.

Executive Order 12988

The final rule has been reviewed under Executive Order 12988. This rule preempts State laws that are inconsistent with its provisions. This rule is not retroactive and does not preempt State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. Before any judicial action may be brought regarding the provisions of this rule the administrative appeal provisions of 7 CFR parts 11 and 870 must be exhausted.

Executive Order 12372

This program is not subject to Executive Order 12372, which requires consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published in the **Federal Register** on June 24, 1983 (48 FR 29115).

Executive Order 13132

The policies contained in this rule do not have any substantial direct effect on 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. Nor does this rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with the states is not required.

Unfunded Mandates

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, local, and tribal government or the private sector. In addition, CCC was not required to publish a notice of proposed rulemaking for this rule. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)

Section 1601(c)(3) of the 2008 Farm Bill requires that the Secretary use the authority in section 808 of title 5, United States Code, which allows an agency to forgo SBREFA's usual 60-day Congressional Review delay of the effective date of a major regulation if the agency finds that there is a good cause to do so. This rule affects a large number of agricultural producers who are dependent upon these provisions for income support and need to know the details as soon as possible because it has a profound effect on their planting and marketing decisions. In any event, Section 1601 provides on its own basis for the finding a good cause. Accordingly, this rule is effective upon the date of filing for public inspection by the Office of the Federal Register.

Paperwork Reduction Act

The regulations in this rule are exempt from requirements of the Paperwork Reduction Act (44 U.S.C. Chapter 35), as specified in section 1601(c)(2) of the 2008 Farm Bill, which provides that these regulations be promulgated and administered without regard to the Paperwork Reduction Act.

E-Government Act Compliance

CCC is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

List of Subjects

7 CFR Part 1421

Barley, Feed grains, Grains, Loan programs—agriculture, Oats, Oilseeds, Peanuts, Price support programs, Reporting and recordkeeping requirements, Soybeans, Surety bonds, Warehouses, Wheat.

7 CFR Part 1434

Honey, Loan programs—agriculture, Price support programs, Reporting and recordkeeping requirements.

■ For the reasons discussed above, this rule amends 7 CFR parts 1421 and 1434 as follows:

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES—MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS FOR 2008 THROUGH 2012

■ 1. Revise the authority citation for part 1421 to read as follows:

Authority: 7 U.S.C. 7231–7237 and 7931–7936; 15 U.S.C. 714b and 714c, and Public Law 110–246.

■ 2. Revise the part heading for 7 CFR part 1421 to read as shown above.

■ 3. Amend § 1421.1 as follows:

■ a. Revise the section heading to read as set forth below;

■ b. Revise paragraph (a) to read as set forth below; and

■ c. Remove paragraph (e).

§ 1421.1 Applicability and interest.

(a) The regulations of this subpart are applicable to the 2008 through 2012 crops of barley, small chickpeas, corn, grain sorghum, lentils, oats, dry peas, peanuts, rice, wheat, wool, mohair, oilseeds and other crops designated by Commodity Credit Corporation (CCC). Additionally, large chickpeas are authorized for coverage for the 2009 through 2012 crop years. These regulations specify the general provisions under which marketing assistance loans (MAL) and loan deficiency payments (LDP) will be administered by CCC. Additional terms and conditions are in the note and security agreement and the loan deficiency payment application that must be executed by a producer to receive marketing assistance loans and LDPs. In any case in which money must be refunded to CCC in connection with this part, interest will be due to run from the date of disbursement of the sum to be refunded. This will apply,

unless waived by the Deputy Administrator, irrespective of any other rule.

* * * * *

§ 1421.2 [Amended]

■ 4. Amend § 1421.2 by removing paragraph (c)(1) and redesignating paragraphs (c)(2) and (c)(3) as (c)(1) and (c)(2), respectively.

■ 5. Amend § 1421.3 as follows:

■ a. Add new definitions, in alphabetical order, for the terms ''Administrative County Office,'' ''CCC,'' ''chickpeas,'' ''CMA,'' ''COC,'' ''Control or Recording FSA County Office,'' ''crop,'' ''crop year,'' ''current net worth ratio,'' ''Department,'' ''Deputy Administrator,'' ''DMA Service County Office,'' ''drawdown account,'' ''electronic warehouse receipt (EWR),'' ''FSA,'' ''high moisture state,'' ''loan deficiency payment (LDP),'' ''loan settlement,'' ''MAL,'' ''medium grain rice,'' ''rice,'' ''Secretary,'' ''security for DMAs,'' and ''STC'' to read as set forth below;

■ b. Remove the definitions of ''field direct loan deficiency payment,'' ''high moisture commodities,'' ''loan deficiency payment,'' and ''small chickpea'';

■ c. Revise the definition of ''loan commodities,'' to read as set forth below;

■ d. Amend paragraph (1) of the definition of ''other crops designated by CCC'' by removing the word ''haulage'' and adding, in its place, the word ''haylage'';

■ e. Amend the definition of ''pulse crops'' by removing the word ''small''; and

■ f. Amend the definition of ''wool'' by adding the words ''and includes, unless noted otherwise, graded and nongraded wool'' before the period at the end.

§ 1421.3 Definitions.

* * * * *

Administrative County Office is the FSA County Office where a producer's FSA records are maintained.

* * * * *

CCC means the Commodity Credit Corporation.

* * * * *

Chickpeas means any chickpea that meets the definition of a chickpea according to the Grain Inspection, Packers and Stockyards Administration (GIPSA), Federal Grain Inspection Service (FGIS).

(1) Small chickpea falls below a 20/64th sieve.

(2) Large chickpea stays above a 20/64th sieve.

* * * * *

CMA means a cooperative marketing association that is subject to regulations in Part 1425 of this chapter.

COC means the FSA county committee.

* * * * *

Control or Recording FSA County Office is the FSA County Office that controls subsidiary files for producers designated as multi-county producers.

Crop means with respect to a year, commodities harvested in that year. That is, a reference to the 2009 crop of a commodity means commodities that when planted were intended for harvest in calendar year 2009.

Crop year means any time relevant to the relevant crop for that year. Thus references to the 2009 crop year are used to include any activities relevant to the 2009 crop.

Current net worth ratio means current assets minus current liabilities, divided by current liabilities, based on the financial statement provided in connection with a DMA application or a recertification for DMA status.

Department means the United States Department of Agriculture.

Deputy Administrator means the Deputy Administrator for Farm Programs, Farm Service Agency (FSA) or a designee of that person.

* * * * *

DMA Service County Office is an FSA County Office designated by CCC to accept, process, and disburse bundled peanut MALs and LDPs to a DMA. In the absence of a centralized MAL and LDP processing system for peanuts, a service county FSA office is necessary for entering MALs and LDPs made by DMAs into CCC accounting systems.

Drawdown account is an account titled to the DMA at a financial institution and funded at the discretion of CCC for the purpose of allowing the DMA to advance funds to producers who have applied for MALs and LDPs before a subsequent MAL or LDP is made to the DMA by an assigned FSA county office.

Electronic warehouse receipt (EWR) means a receipt electronically filed in a central filing system by an approved provider as provided in an executed, ''Farm Service Agency Provider Agreement to Electronically File and Maintain Warehouse Receipts.''

FSA means the Farm Service Agency of the United States Department of Agriculture.

High moisture state means corn or grain sorghum having a moisture content in excess of CCC standards used to determine eligibility for marketing assistance loans made by the Secretary.

* * * * *

Loan commodities means wheat, corn, grain sorghum, barley, oats, rice, soybeans, other oilseeds, peanuts, wool, mohair, dry peas, lentils, chickpeas, and other crops designated by CCC.

Loan deficiency payment (LDP) means a payment received in lieu of a loan when the CCC-determined value is below the applicable county loan rate.

Loan settlement means farm stored commodities delivered to CCC and warehouse stored commodities forfeited to CCC, effective with the 2009 through 2012 crop years.

MAL means marketing assistance loan.

Medium grain rice for the purposes of this part includes both short and medium grain rice as defined by the U.S. Standards for Rice.

* * * * *

Rice means, unless otherwise noted, long grain rice and medium grain rice.

Secretary means the Secretary of the United States Department of Agriculture, or the Secretary's delegate.

Security for DMAs means a certified or cashier's check payable to CCC, an irrevocable commercial letter of credit in a form acceptable to CCC, a performance or surety bond conditioned on the DMA fully discharging all of its obligations under this part, or other form of financial security as CCC may deem appropriate.

* * * * *

STC means the FSA State committee.

* * * * *

■ 6. Amend § 1421.4 as follows:

■ a. Amend paragraph (a)(1) by removing the words ''State or political subdivision or agency thereof,'' and

■ b. Revise paragraph (a)(2) to read as set forth below.

§ 1421.4 Eligible producers.

(a) * * *

(2) Comply with all provisions of this part and, as applicable:

(i) 7 CFR part 12—Highly Erodible Land and Wetland Conservation;

(ii) 7 CFR part 707—Payments Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent;

(iii) 7 CFR part 718—Provisions Applicable to Multiple Programs;

(iv) 7 CFR part 996—Minimum Quality and Handling Standards for Domestic and Imported Peanuts Marketed in the United States;

(v) 7 CFR part 1400—Payment Limitation & Payment Eligibility for 2009 and Subsequent Crops, Programs, or Fiscal Years;

(vi) 7 CFR part 1402—Policy for Certain Commodities Available for Sale;

(vii) 7 CFR part 1403—Debt Settlement Policies and Procedures;

(viii) 7 CFR part 1405—Loans, Purchases, and Other Operations;

(ix) 7 CFR part 1412—Direct and Counter-Cyclical Program and Average Crop Revenue Election Program for the 2008 and Subsequent Crop Years; and

(x) 7 CFR part 1423—Commodity Credit Corporation Approved Warehouses.

* * * * *

■ 7. Amend § 1421.5 as follows:

■ a. Amend paragraph (a)(1) by removing the words ''canola,'' and ''small'';

■ b. Revise paragraph (c) to read as set forth below; and

■ c. Amend paragraph (f) by adding the word ''or'' immediately after the word ''gift,''.

§ 1421.5 Eligible commodities.

* * * * *

(c)(1) To be an eligible commodity, the commodity must be merchantable for food, feed, or other uses determined by CCC and must not contain mercurial compounds, toxin producing molds, or other substances poisonous to humans or animals. A commodity containing vomitoxin, aflatoxin, or Aspergillus mold may not be pledged for a loan made under this part, except as provided by CCC in the marketing assistance loan note and security agreement.

(2) The determination of eligibility for rice includes class, grade, grading factor, milling yields, and other quality factors and will be based upon the U.S. Standards for Rice as applied to rough rice whether or not such determinations are made on the basis of an official inspection.

(3) The determination of eligibility for peanuts includes type, quality, and quantity.

(4) With respect to barley, canola, corn, flaxseed, grain sorghum, oats, rice, soybeans, sunflower seed for extraction of oil, wheat, and other commodities designated by CCC, the determination of eligibility will be based upon the Official U.S. Standards for Grain: U.S. Standards for Whole Dry Peas, Split Peas, and Lentils for dry peas and lentils; and the U.S. Standards for Beans for chickpeas, whether or not such determinations are made on the basis of an official inspection.

(5) With regard to hull-less barley, hull-less oats, mustard seed, rapeseed, safflower seed, flaxseed, and sunflower seed used for a purpose other than to extract oil, the determination of eligibility will be based on quality requirements established and announced by CCC, whether or not such determinations are made on the basis of an official inspection. The costs of an official quality determination may be paid by CCC. The quality requirements that are used in administering marketing assistance loans and loan deficiency payments for the oilseeds in this paragraph are available in USDA State and county FSA service centers.

(6) With regard to farm-stored peanuts, the determination of eligibility will be determined at the time of delivery to CCC by a Federal or State Inspector authorized or licensed by the Secretary.

* * * * *

■ 8. Amend § 1421.6 as follows:

■ a. In paragraphs (b)(5), (c)(5), and (h)(2) remove the word ''approved'' and add, in its place, the word ''authorized'' each time it appears;

■ b. In paragraph (a), revise the second sentence to read as set forth below;

■ c. In paragraphs (b)(5) and (c)(5), add the words ''feed or grain bank'' immediately after the words ''feed mill,'' each time they appear;

■ d. In paragraph (c)(5), remove the word ''unapproved'' and add, in its place, the word ''unauthorized'';

■ e. In paragraph (h)(1)(i), add the words ''the earlier of receipt of any payment or'' immediately before the word ''once'' and add the words ''of the delivery requirements'' immediately after the word ''fulfillment'';

■ f. In paragraph (h)(2), add the words ''if CCC determines such a provision is required'' before the period at the end; and

■ g. In paragraph (i), remove the words ''loan and'' and add, in their place, the words ''loan or'' and remove the words ''or payment'' and add, in their place, the words ''or LDP''.

§ 1421.6 Beneficial interest.

(a) * * * For the purposes of this part, the term ''beneficial interest'' refers to a determination by CCC that a person has title to and control of the commodity that is tendered to CCC as collateral for a marketing assistance loan or of the commodity that will be used to determine a loan deficiency payment.

* * * * *

§ 1421.7 [Amended]

■ 9. Amend § 1421.7 as follows:

■ a. In paragraph (c), remove the words ''a crop of a'' and add, in their place, the words ''an eligible'';

■ b. In paragraph (c)(1), add the words ''crambe, sesame seed'' immediately after the word ''rapeseed,'';

■ c. In paragraph (c)(2), remove the word ''small''; and

■ d. Remove paragraph (d).

§ 1421.8 [Amended]

■ 10. Amend § 1421.8 as follows:

■ a. In paragraph (a)(2), remove the reference ''§ 1421.106'' and add, in its place, the references and words ''§§ 1421.9, 1421.106, and 1421.107 as applicable'';

■ b. In paragraph (b)(1) introductory text, add the words ''loan availability'' immediately after the word ''final'';

■ c. In paragraph (c)(1), remove the word ''approved'' and add, in its place, the word ''authorized'' each time it appears;

■ d. Remove paragraph (c)(2) and redesignate paragraph (c)(3) as (c)(2); and

■ e. In newly redesignated paragraph (c)(2), remove the words ''an otherwise eligible commodity'' in the last sentence and add, in their place, the words ''otherwise eligible''.

■ 11. Amend § 1421.9 as follows:

■ a. Revise paragraph (a) to read as set forth below;

■ b. In paragraph (b), remove the words ''small chickpeas,'' and add the words ''chickpeas, crambe, sesame seed,'' in their place, and remove the word ''at'' and add the word ''to'' in its place;

■ c. Revise paragraph (c) to read as set forth below; and

■ d. Add paragraphs (d) through (g) to read as set forth below.

§ 1421.9 Basic loan rates.

(a) Basic marketing assistance loan rates for a commodity may be established on a National, State, regional, county basis or other basis, will be at rates that comply with applicable statutes, and may be adjusted by CCC to reflect grade, type, quality, location and other factors applicable to the commodity and as otherwise provided in this section.

* * * * *

(c)(1) Subject to adjustment under paragraph (g) of this section in case of forfeiture, for all 2009 through 2012 crop year commodities, except rice and peanuts, warehouse-stored loans will be disbursed at levels based on the basic county marketing assistance loan rate for the county where the commodity is stored. For the 2008 crop year only, warehouse-stored loans will be disbursed at levels based on the basic county marketing assistance loan rate for the county where the commodity is stored, adjusted for the schedule of premiums and discounts established for the commodity on the basis of grade, type, and quality factors set forth on warehouse receipts or supplemental certificates and for other factors, as determined and announced by CCC.

(2) Subject to adjustment under paragraph (g) of this section in case of

forfeiture, for 2009 through 2012 crop years rice, warehouse-stored loans will be disbursed at levels based on the milling yields times the whole and broken kernel marketing assistance loan rates. For the 2008 crop year of rice only, warehouse-stored loans will be disbursed at levels based on the milling yields times the whole and broken kernel marketing assistance loan rates, adjusted for the schedule of discounts on the basis of grade and quality factors set forth on warehouse receipts or supplemental certificates and for other factors, as determined and announced by CCC.

(3) For peanuts, warehouse-stored loans will be disbursed at levels based on National loan rates by peanut type, adjusted for the schedule of premiums and discounts on the basis of grade, quality, and other factors set forth on warehouse receipts.

(d) The Secretary will establish a single loan rate in each county for each kind of other oilseeds, such as but not limited to, sunflower, rapeseed, canola, safflower, flaxseed, mustard seed, crambe, sesame seed, and other oilseeds as designated by the Secretary.

(e) Adjustments by the Secretary to establish loan rates for loan commodities, except rice, on a county basis will not be lower than 95 percent of the national average loan rate, if those loan rates do not result in an increase in outlays. Adjustments in this section will not result in an increase in the national average loan rate for any year.

(f) For the 2009 through 2012 crops, producers on farms in the Acreage Crop Revenue Election program under part 1400 of this title will receive a 30 percent reduction in loan rate as established under this section for all loan commodities from the farm, except honey, wool, and mohair.

(g) For the 2009 through 2012 crop years, premiums and discounts will not be applicable for all eligible loan commodities, except for peanuts, at loan disbursement; however, premiums and discounts will apply if the eligible loan commodities are forfeited and delivered to CCC and any deficiency must be repaid to CCC.

■ 12. Revise § 1421.10 to read as follows:

§ 1421.10 Loan repayment rates.

(a) For the 2008 through 2012 crops of barley, corn, grain sorghum, oats, wheat, dry peas, lentils, chickpeas, oilseeds, wool, mohair, and other crops as designated by CCC (other than peanuts, long grain rice, medium grain rice, and confectionery and each other kind of sunflower seed (other than oil sunflower seed)), a producer may repay a nonrecourse marketing assistance loan at a rate that is the lesser of:

(1) The loan rate established for the commodity under § 1421.9, plus interest;

(2) A rate (as determined by the Secretary) that is calculated based on average market prices for the loan commodity during a preceding 30-day period and that the Secretary has determined will minimize discrepancies in marketing loan benefits across State boundaries and across county boundaries; or

(3) A rate that the Secretary may develop using alternative methods for calculating a repayment rate for a loan commodity that the Secretary determines will: Minimize potential loan forfeitures; minimize the accumulation of stocks of the commodity by the Federal Government; minimize the cost incurred by the Federal Government in storing the commodity; allow the commodity produced in the U.S. to be marketed freely and competitively, both domestically and internationally; and minimize discrepancies in marketing loan benefits across State boundaries and across county boundaries.

(b) To the extent practicable, CCC will determine and announce repayment rates under paragraphs (a)(2) and (a)(3) of this section based upon market prices at appropriate U.S. markets as determined by CCC and these repayment rates may be adjusted to reflect grade, type, quality, location, and other factors for each crop of a commodity as follows:

(1) On a weekly basis in each county for oilseeds, except canola, flaxseed, soybeans, and sunflower seed;

(2) On a daily basis in each county for barley, canola, corn, flaxseed, grain sorghum, oats, soybeans, sunflower seed and wheat; and

(3) On a weekly basis regionally for dry peas, lentils, chickpeas, wool and mohair.

(c)(1) For the 2008 through 2012 crops of peanuts, a producer may repay a nonrecourse loan at a rate that is the lesser of:

(i) The loan rate established for the commodity under § 1421.9, plus interest; or

(ii) A rate that the Secretary determines will: Minimize potential loan forfeitures; minimize the accumulation of stocks of the commodity by the Federal Government; minimize the cost incurred by the Federal Government in storing the commodity; and allow the commodity produced in the United States to be marketed freely and competitively, both domestically and internationally.

(2) To the extent practicable, CCC will determine and announce weekly alternative repayment rates for peanuts.

(d) For the 2008 through 2012 crop of peanuts, the Secretary will require the repayment of handling and other associated costs paid under § 1421.104 for all peanuts pledged as collateral for a loan that are redeemed under this section.

(e) The Secretary will permit producers to repay a marketing assistance loan for long grain rice and medium grain rice at a rate that is the lesser of:

(1) The loan rate established for the commodity under § 1421.9, plus interest; or

(2) The prevailing world market price for the commodity, as determined and adjusted by the Secretary in accordance with this section.

(f) For purposes of this section, the Secretary will prescribe—

(1) A formula to determine the prevailing world market price for long grain rice and medium grain rice and

(2) A mechanism by which the Secretary will announce periodically those prevailing world market prices.

(g) Adjustments will be made to the prevailing world market price for long grain rice and medium grain rice.

(1) The prevailing world market price for long grain and medium rice determined under paragraph (f) of this section will be adjusted to U.S. quality and location.

(2) In making adjustments under this subsection, the Secretary will establish a mechanism for determining and announcing the adjustments in order to avoid undue disruption in the U.S. market.

(h)(1) The prevailing world market price for a class of rice will be determined by CCC based upon a review of prices at which rice is being sold in world markets and a weighting of such prices through the use of information such as changes in supply and demand of rice, tender offers, credit concessions, barter sales, government-to-government sales, special processing costs for coatings or premixes, and other relevant price indicators, and will be expressed in U.S. equivalent values F.O.B. (free on board) vessel, U.S. port of export, per hundredweight as follows:

(i) U.S. grade No. 2, 4 percent broken kernels, long grain milled rice;

(ii) U.S. grade No. 2, 4 percent broken kernels, medium grain milled rice; and

(iii) U.S. grade No. 2, 4 percent broken kernels, short grain milled rice.

(2) Export transactions involving rice and all other related market information will be monitored on a continuous basis. Relevant information may be

obtained for this purpose from USDA field reports, international organizations, public or private research entities, international rice brokers, and other sources of reliable information.

(3) The prevailing world market price for a class of rice adjusted to U.S. quality and location, the adjusted world price (AWP), as determined under paragraph (h)(5) of this section, will apply to this section.

(4) The adjusted world price for each class of rice will equal the prevailing world market price for a class of rice (U.S. equivalent value) as determined under paragraphs (h)(1) and (h)(2) of this section and adjusted to U.S. quality and location as follows:

(i) The prevailing world market price for a class of rice will be adjusted to reflect an F.O.B. mill position by deducting from such calculated price an amount that is equal to the estimated national average costs associated with:

(A) The use of bags for the export of U.S. rice, and

(B) The transfer of such rice from a mill location to F.O.B. vessel at the U.S. port of export with such costs including, but not limited to, freight, unloading, wharfage, insurance, inspection, fumigation, stevedoring, interest, banking charges, storage, and administrative costs.

(ii) The price determined under paragraph (h)(4)(i) of this section will be adjusted to reflect the market value of the total quantity of whole kernels contained in milled rice by deducting the world value of broken kernels it contains, with the value of the broken kernels determined by multiplying a formulaic quantity of broken kernels (4 percent per hundredweight) by the world market value of broken kernels. The world market value of broken kernels will be based upon the relationship of whole and broken kernel world prices as estimated from observations of prices at which rice is being sold in world markets.

(iii) The price determined under paragraph (h)(4)(ii) of this section will be adjusted to reflect the per-pound market value of whole kernels by dividing the price by the quantity of whole milled kernels contained in the milled rice (96 percent per hundredweight).

(iv) The price determined under paragraph (h)(4)(iii) of this section will be adjusted to reflect the market value of whole kernels contained in 100 pounds of rough rice by multiplying such price by the estimated national average quantity of whole kernel rice by class obtained from milling 100 pounds of rough rice.

(v) The price determined under paragraph (h)(4)(iv) of this section will be adjusted to reflect the total market value of rough rice by:

(A) Adding to such price:

(*1*) The market value of bran contained in the rough rice, computed by multiplying the domestic unit market value of bran by the estimated national average quantity of bran produced in milling 100 pounds of rice; and

(*2*) The market value of broken kernels contained in the rough rice, computed by multiplying the estimated world market value of broken kernels by the estimated national average quantity of broken kernels produced in milling 100 pounds of rice;

(B) Deducting from such price an estimated cost of milling rough rice; and an estimated cost of transporting rough rice from farm to mill locations.

(5) The adjusted world price for each class of rice, loan rate basis, will be determined by CCC and announced, to the extent practicable, on or after 7 a.m. Eastern Standard Time each Wednesday or more frequently as determined necessary by CCC, continuing through the later of:

(i) The last Wednesday of July in the year in which the crop rice loan matures;

(ii) The last Wednesday of the latest month the crop rice loans mature, or

(iii) In the event that Tuesday is not a normal business day, the determination may be made on the next work day, on or after 7 a.m. Eastern Standard Time.

(i) The producer may repay a marketing assistance loan under this section for confectionery and each other kind of sunflower seed (other than oil sunflower seed) at a rate that is the lesser of:

(1) The loan rate established for the commodity under § 1421.9, plus interest, or

(2) The repayment rate established for oil sunflower seed.

(j)(1) On a form prescribed by CCC, a producer may request to lock in the applicable repayment rate for a period of 60 calendar days or for the remaining life of the loan term, whichever is less, provided that no request may be granted within 14 calendar days of the end of the loan.

(2) The request to lock in the applicable repayment rate must be received in the FSA county service center that disbursed the loan.

(3) The repayment rate that is locked in will be the rate in effect when the request to lock in is approved.

(4) The repayment rate may be locked in on outstanding farm-stored or warehouse-stored loans.

(5) The repayment rate that is locked in will expire as provided in paragraph (j)(1) of this section.

(6) The requests can only be completed one time for a designated quantity.

(7) The requests can be made in person or by facsimile.

(8) The requests cannot be canceled, terminated, or changed after approval.

(9) The locked in applicable repayment rate will not transfer to any loan disbursed outside of the originating county where the commodity was stored.

(10) Once a repayment rate is locked in it cannot be extended.

(k) If a producer fails to repay a marketing assistance loan within the time prescribed by CCC under the terms and conditions of the request to lock in a market loan repayment rate, the producer may repay the loan:

(1) On or before maturity, at the lesser of:

(i) Principal plus interest as determined by CCC; or

(ii) The repayment rate in effect on the day the repayment is received in the FSA County Service Center.

(2) After maturity, at principal plus interest.

(l) When the proceeds of the sale of the commodity are needed to repay all or a part of a farm-stored loan, the producer must request and obtain prior written approval on a CCC-approved form and comply with the terms and conditions of such form, to remove a specified quantity of the commodity from storage. Approval does not constitute release of CCC's security interest in the commodity or release of producer liability for amounts due CCC for the marketing assistance loan indebtedness if payment in full is not received by the county office. Failure to repay a marketing assistance loan within the time period prescribed by CCC in the case of a farm-stored loan and delivery of the pledged collateral to a buyer is a violation of the agreement. In the case of such violation, the producer must repay the loan principal and interest or another amount as determined by the Deputy Administrator, FSA, as specified in § 1421.109.

(m) The producer may obtain county committee approval of a release of all or part of pledged collateral for a warehouse-stored loan at or before the maturity of such loan by paying to CCC:

(1) The principal amount of the marketing assistance loan and charges plus interest or

(2) An amount less than the principal amount of the marketing assistance loan and charges plus interest under the

terms and conditions specified by CCC at the time the producer redeems the collateral for such loan.

(n) A partial release of marketing assistance loan collateral must cover all of the commodity represented by one warehouse receipt. Warehouse receipts redeemed by repayment of the marketing assistance loan must be released only to the producer. However, such receipt may be released to persons designated in a written authorization that is filed with the county office by the producer within 15 days before the date of repayment.

(o) The note and security agreement will not be released until the marketing assistance loan has been satisfied in full.

(p)(1) If the commodity is moved from storage without obtaining prior approval to move such commodity, such removal will constitute unauthorized removal or disposition, as applicable under § 1421.109(b), unless the removal occurred on a non-workday and the producer notified the county office on the next workday of such removal.

(2) Any loan quantities involved in a violation of § 1421.109 must be repaid under § 1421.109(e).

(q) In the event of a severe disruption to marketing, transportation, or related infrastructure, the Secretary may modify the repayment rate otherwise applicable under this section for marketing assistance loans. Any adjustment made to the repayment rate for marketing assistance loans for a loan commodity under § 1421.5 will be in effect on a short-term and temporary basis, as determined by the Secretary.

■ 13. Amend § 1421.13 as follows:
■ a. Revise the heading to read as set forth below;
■ b. Remove paragraph (a);
■ c. Redesignate paragraph (b) as paragraph (a); and
■ d. In newly designated paragraph (a)(2), remove the word ''is'' and add the word ''are'' in its place.

§ 1421.13 Special loan deficiency payments.

* * * * *

§ 1421.101 [Amended]

■ 14. Amend § 1421.101 paragraph (a)(1) first sentence by removing the word ''approved'' and adding the word ''disbursed'' in its place.

§ 1421.102 [Amended]

■ 15. Amend § 1421.102 as follows:
■ a. In paragraph (a)(2)(ii), remove the words ''average marketing assistance'';
■ b. In paragraph (a)(3), remove the word ''base''; and
■ c. In paragraph (a)(4), remove the words ''marketing assistance''.

■ 16. Amend § 1421.103 as follows:
■ a. Revise the heading to read as set forth below;
■ b. In paragraph (a) introductory text, remove the word ''Approved'' and add the word ''Authorized'' in its place;
■ c. In paragraph (a)(3), remove the word ''approved'' and add the word ''authorized'' in its place; and
■ d. Revise paragraph (c) to read as set forth below.

§ 1421.103 Authorized storage.

* * * * *

(c)(1) Authorized warehouse storage consists of warehouses that:

(i) If Federally licensed, are in compliance with 7 CFR part 735 or

(ii) If not Federally licensed, are in compliance with State laws and that issue warehouse receipts that meet the criteria specified in § 1421.107.

(iii) If not Federally licensed or in compliance with State Laws and issue warehouse receipts that meet the criteria specified in § 1421.107, have entered into a storage agreement with CCC.

(2) Notwithstanding paragraph (c)(1) of this section, if storing peanuts, the warehouse must in all cases have entered into a storage agreement with CCC. For storing other crops, notwithstanding paragraph (c)(1) of this section, CCC may, on a case-by-case basis, still require a warehouse operator that would qualify under paragraphs (c)(1)(i) or (ii) of this section to enter into a storage agreement if deemed necessary by the Deputy Administrator to be needed to protect CCC's interests.

■ 17. Amend § 1421.104 as follows:
■ a. In paragraph (a)(1), remove the amount ''$25,000,'' each time it appears, and add the amount ''$50,000,'' in its place;
■ b. Revise paragraph (b), introductory text, to read as set forth below;
■ c. In paragraph (b)(2), remove the semicolon at the end of the sentence and replace it with a period;
■ d. Remove paragraph (b)(3); and
■ e. Revise paragraph (c) to read as set forth below.

§ 1421.104 Marketing assistance loan making.

* * * * *

(b) Fees, charges, interest, and all applicable approved commodity assessment collections must be paid by the producer to CCC at a rate CCC determines or, in the case of assessments, at a rate approved by the assessment authority. Such fees, charges, and interest include:

* * * * *

(c) For the 2008 through 2012 crop years, to ensure proper storage of peanuts for which a loan is made under this section, the Secretary will pay reasonable handling and other associated costs (other than storage) incurred at the time at which the peanuts are placed in a warehouse stored loan. Such rates will be available in the State and county FSA offices.

* * * * *

§ 1421.106 [Amended]

■ 18. Amend § 1421.106 as follows:
■ a. In paragraph (d) in the first sentence, remove the words ''Handling and storage'' and add the word ''Storage'' in their place; and
■ b. Remove paragraph (g).

■ 19. Amend § 1421.107 as follows:
■ a. In paragraph (b) in the third sentence, remove the word ''approved'' and add the word ''authorized'' in its place;
■ b. In paragraph (d), remove the words ''approved warehouse that has a storage agreement with CCC shall,'' add the words ''authorized warehouse must'' in their place, and remove the words ''under such agreement'';
■ c. In paragraph (g)(1) introductory text, remove the words ''the applicable CCC storage agreement or'';
■ d. In paragraph (g)(1)(ii), remove the word ''CCC'' and add, in its place, the words ''licensing authority'';
■ e. In paragraph (h)(2)(i), remove the reference ''(g)(2)(iv)'' and add, in its place, a reference ''(h)(2)(iv)'';
■ f. In paragraph (h)(2)(ii), remove the reference ''(g)(2)(i)'' and add, in its place, a reference ''(h)(2)(i)'';
■ g. In paragraph (h)(2)(iv) introductory text, remove the reference ''(g)(2)(iii)'' and add, in its place, a reference ''(h)(2)(iii)'';
■ h. In paragraph (h)(2)(iv)(A)(*7*), remove the word ''percen'' and add, in its place, the word ''percent'';
■ i. Revise the first sentence of paragraph (i)(2) to read as set forth below; and
■ j. In paragraph (j), remove the reference ''paragraph (f)'' and add in its place the reference ''paragraph (g)''.

§ 1421.107 Warehouse receipts.

* * * * *

(i) * * *

(2) Warehouse receipts and the commodities represented by such receipts may be subject to a lien for warehouse charges. * * *

* * * * *

§ 1421.108 [Amended]

■ 20. Amend § 1421.108 as follows:
■ a. In paragraph (c) in the first sentence, remove the words ''CCC-approved'' and add in their place the word ''authorized''; and

■ b. In paragraph (c), third sentence, remove the word ''to'' the second time it appears.

■ 21. Amend § 1421.109 as follows:

■ a. In paragraph (a)(2), add the words ''in accordance with § 1421.10'' before the period at the end;

■ b. In paragraph (a)(3), add a new sentence at the end to read as set forth below;

■ c. Revise paragraph (b), introductory text, to read as set forth below;

■ d. In paragraph (c), remove the first sentence and the words ''Accordingly, if'' and add the word ''If'' in their place;

■ e. In paragraphs (e) and (f) introductory text remove the word ''commensurate'' and add, in its place, the word ''equivalent'';

■ f. In paragraph (h) add a new sentence at the end to read as set forth below;

■ g. In paragraph (i)(1), add the word ''sufficient'' immediately before the word ''evidence'';

■ h. In paragraph (j), remove the word ''lower'';

■ i. Revise paragraph (k), introductory text, to read as set forth below;

■ j. In paragraph (p), remove the phrases ''or loan deficiency payments'' and ''or loan deficiency payment application''; and

■ k. Revise paragraph (q) to read as set forth below.

§ 1421.109 Personal liability of the producer.

(a) * * *

(3) * * * If CCC determines that the producer has violated the terms and conditions of the applicable forms prescribed by CCC, liquidated damages will be assessed on the quantity of the commodity that is involved in the violation.

(b) Such violations as referred to in paragraph (a)(3) of this section may include, but are not limited to:

* * * * *

(h) * * * CCC will demand delivery of any remaining loan collateral if not repaid within the 30 calendar day notification period.

* * * * *

(k) Producers denied or rejected for a farm-stored loan for any reason under this section may apply for a warehouse-stored loan.

* * * * *

(q) Any or all of the liquidated damages assessed under this section may be waived if the CCC determines that the violation occurred inadvertently, accidentally, or unintentionally.

§ 1421.110 [Removed]

§§ 1421.111 through 1421.114 [Redesignated as §§ 1421.110 through 1421.113]

■ 22. Remove § 1421.110 and redesignate §§ 1421.111 through 1421.114 as §§ 1421.110 through 1421.113 respectively.

■ 23. Amend newly designated § 1421.110 as follows:

■ a. In paragraph (a), add the words ''for the 2008 and 2009 crop years'' immediately after the words ''outstanding marketing assistance loan'';

■ b. In paragraph (b) introductory text, remove the word ''lessor'' and adding in its place the word ''lesser'';

■ c. In paragraph (c), remove the reference to ''§ 1421.110'' and add, in its place, a reference to ''§ 1421.10''; and

■ d. Add paragraph (e) to read as set forth below.

§ 1421.110 Commodity exchange certificates.

* * * * *

(e) The authority to make commodity certificates available to the producer will terminate effective the ending of the 2009 crop year.

■ 24. Amend newly designated § 1421.111 as follows:

■ a. Revise paragraph (b) to read as set forth below;

■ b. In paragraphs (c) introductory text, (c)(1), and (c)(2) remove the word ''approved'' and add, in its place, the word ''authorized'' each time it appears.

■ c. Redesignate paragraph (d) as paragraph (e) and add a new paragraph (d) to read as set forth below; and

■ d. Add paragraph (f) to read as set forth below.

§ 1421.111 Loan settlement.

* * * * *

(b) Settlements made by CCC for eligible commodities that are acquired by CCC and that are stored in an authorized warehouse will be made on the basis of the entries in the applicable warehouse receipt, supplemental certificate, and accompanying documents.

(1) All eligible commodities that are stored in other than authorized warehouses must be delivered to CCC as CCC instructs. Settlement will be based on entries in the applicable warehouse receipt, supplemental certificate, and accompanying documents.

(2) For eligible loan commodities that are delivered from other than an authorized warehouse, settlement will be made by CCC on the basis of the basic marketing assistance loan rate that is in effect for the commodity at the producer's customary delivery point, as determined by CCC.

* * * * *

(d) For peanuts forfeited to CCC, the Secretary will pay reasonable storage, handling, and other associated costs for all peanuts pledged as collateral that are forfeited under this section.

* * * * *

(f) Beginning with the 2009 through 2012 crop years, premiums and discounts will apply to all eligible loan commodities forfeited and delivered to CCC. This will not require any additional adjustment for peanuts to the extent that such premiums and discounts were accounted for when the loan was made.

§ 1421.112 [Amended]

■ 25. In newly designated § 1421.112, amend paragraph (b)(1) by removing the reference to ''§ 1421.112'' and adding, in its place, a reference to ''§ 1421.111''.

§ 1421.113 [Amended]

■ 26. In newly designated § 1421.113, amend paragraph (b) by adding the words ''at principal plus interest'' immediately after the word ''full''.

■ 27. Amend § 1421.200 by revising paragraph (c)(1) to read as follows:

§ 1421.200 Applicability.

* * * * *

(c)(1) A producer must submit to the FSA Service Center a completed request for a loan deficiency payment on forms prescribed by CCC. This submission must be received on or before the date beneficial interest is lost in the commodity and before the final loan availability date for the commodity. Such completed and submitted forms indicate the producer's intentions and further provide the terms and conditions of the loan deficiency payment program. If all or any of the provisions of this paragraph are not met by the producer, the producer may not obtain the loan deficiency payment benefit.

* * * * *

■ 28. Amend § 1421.201 as follows:

■ a. Revise paragraph (b), introductory text, to read as set forth below;

■ b. Remove paragraphs (b)(1) and (b)(2), and (b)(3) introductory text; and

■ c. Redesignate paragraphs (b)(3)(i), (ii), and (iii) as (b)(1), (2) and (3), respectively.

§ 1421.201 Loan deficiency payment rate.

* * * * *

(b) The loan deficiency payment rate will be the rate in effect in the county

where the commodity was marketed or stored on the date:

* * * * *

§ 1421.202 [Amended]

■ 29. Amend § 1421.202 paragraph (c) by removing the words ''approved or unapproved'' and adding, in their place, the words ''authorized or unauthorized''.

§ 1421.203 [Amended]

■ 30. Amend § 1421.203 as follows:

■ a. Amend paragraph (a)(1) by removing the words ''in determining'' and adding, in their place, the words ''when determining eligibility for'';

■ b. Amend paragraph (a)(2) by removing the words ''eligible, if'' and adding in their place the words ''eligible. If'';

■ c. Amend paragraph (c)(1) in the first sentence by removing the words ''in accordance with,'' and adding in its place, the words ''according to'' and in the last sentence by adding the words ''any other'' immediately before the word ''charges'';

■ d. Amend paragraph (c)(2) by adding the words ''any other'' immediately before the word ''charges'';

■ e. Amend paragraph (d) by removing the words ''taken applicable'' and adding, in its place, the words ''assessed according'';

■ f. Amend paragraph (f)(1) by adding the word ''sufficient'' immediately after the word ''provide''; and

■ g. Amend paragraph (g) by removing the word ''charges'' and adding, in its place, the words ''liquidated damages''.

Subpart D—Grazing Payments for the 2008 Through 2012 Crop of Wheat, Barley, Oats, and Triticale

■ 31. The heading of subpart D is revised to read as shown above.

§ 1421.300 [Amended]

■ 32. Amend § 1421.300 in paragraph (a), first sentence, by removing the years ''2002–2007'' and adding, in their place, the years ''2008 through 2012''.

§ 1421.302 [Removed]

§§ 1421.303 through 1421.307 [Redesignated as §§ 1421.302 through 1421.306]

■ 33. Remove § 1421.302 and redesignate §§ 1421.303 through 1421.307 as §§ 1421.302 through 1421.306.

§ 1421.302 [Amended]

■ 34. Amend newly redesignated § 1421.302 as follows:

■ a. Amend paragraph (a), first sentence, by removing the years ''2002 through 2007'' and adding, in their place, the years ''2008 through 2012'' and in the third sentence by removing the words ''the risk of loss in'' and adding, in their place, the words ''control and title of'';

■ b. Amend paragraph (e)(2) by removing the words ''control, title, and risk of loss in'' and adding, in their place, the words ''control and title of''; and

■ c. Amend paragraph (f) by removing the years ''2002–2007'' and adding, in their place, the years ''2008 through 2012''.

■ 35. Amend newly redesignated § 1421.304 as follows:

■ a. In paragraph (a) revise the second sentence to read as set forth below;

■ b. In paragraph (d), last sentence, remove the extra space before the comma '','' in the last sentence immediately after the phrase ''otherwise be due'';

■ c. In paragraph (e), second sentence, remove the word ''The'' immediately before the word ''CCC'';

■ d. In paragraph (f), remove the words ''of the applicable crop year'' and add, in their place, the words ''of the calendar year following the year the crop is normally harvested'';

■ e. in paragraph (g), add the word ''be'' immediately before the word ''ineligible'' and remove the word ''the'' immediately before the word ''CCC''; and

■ f. Remove paragraph (h).

§ 1421.304 Payment amount.

(a) * * * For triticale, the grazing rate will be equal to the loan deficiency payment rate in effect for the predominant class of wheat in the county where the farm is located as of the date the application is filed.

* * * * *

§ 1421.306 [Amended]

■ 36. Amend newly redesignated § 1421.306 as follows:

■ a. In paragraph (a), remove the words ''or this subpart'' and add, in their place, the words ''of this subpart,'' and remove the words ''late-payments'' and add, in their place, the words ''late-payment'';

■ b. In paragraph (c), first sentence, remove the words ''required of the producer'' and add, in their place, the words ''required from the producer''; and

■ c. In paragraph (d), remove the words ''7 CFR part 1403'' and add, in their place, the words ''part 1403 of this chapter''.

Subpart E—[Amended]

■ 37. Amend Subpart E as follows:

■ a. Remove the word ''DMA's'' and add, in its place, the word ''DMAs'' each time it appears;

■ b. Remove the word ''MAL's'' and add, in its place, the word ''MALs,'' each time it appears;

■ c. Remove the word ''LDP's'' and add, in its place, the word ''LDPs,'' each time it appears; and

■ d. Remove the word ''EWR's'' and add, in its place, the word ''EWRs,'' each time it appears.

§ 1421.400 [Amended]

■ 38. Amend § 1421.400 as follows:

■ a. In paragraph (a), remove the last sentence; and

■ b. Remove and reserve paragraph (b).

§ 1421.401 [Removed]

§§ 1421.402 through 1421.418 [Redesignated as §§ 1421.401 through 1421.417]

■ 39. Remove § 1421.401 and redesignate §§ 1421.402 through 1421.418 as §§ 1421.401 through 1421.417, respectively.

■ 40. Amend newly redesignated § 1421.401 by removing the word ''theFederal'' in paragraph (b)(1) and adding, in its place, the words ''the Federal''.

■ 41. Amend newly redesignated § 1421.409 by adding a sentence to the end of the section to read as follows:

§ 1421.409 Monitoring and payment limitations.

* * * Payment limitations are not applicable for the 2009 through 2012 crop years.

§ 1421.419 [Removed]

§§ 1421.420 through 1421.423 [Redesignated as §§ 1421.418 through 1421.420]

■ 42. Remove § 1421.419 and redesignate §§ 1421.420 through 1421.423 as §§ 1421.418 through 1421.421, respectively.

Subpart F—[Removed]

■ 43. Remove subpart F.

PART 1434—NONRECOURSE MARKETING ASSISTANCE LOANS AND LDP REGULATIONS FOR HONEY

■ 44. Revise the authority citation for part 1434 to read as follows:

Authority: 7 U.S.C. 7931 and Public Law 110–246.

■ 45. Revise § 1434.1 to read as set forth below:

§ 1434.1 Applicability.

(a) This part provides the terms and conditions of Commodity Credit

Corporation (CCC) nonrecourse marketing assistance loans or loan deficiency payments for honey for the 2008 through 2012 crop years. Marketing loan gains and loan deficiency payments for the 2008 crop will be limited to the payment limitation rules applicable to the 2008 crop. Beginning with the 2009 crop year, there will not be payment limits on marketing loan gains and loan deficiency payments.

(b) Producers must comply with all provisions of this part and part 1421 of this chapter.

■ 46. Amend § 1434.6 as follows:
■ a. Remove paragraph (b) and redesignate paragraphs (c) through (e) as paragraphs (b) through (d), respectively;
■ b. In newly redesignated paragraph (b) introductory text, remove the words ''control, title, and risk of loss in'' and add, in their place, the words ''title and control of'';
■ c. Revise newly redesignated paragraph (b)(1) to read as set forth below; and
■ d. In newly redesignated paragraph (b)(2), remove the words ''risk of loss,''.

§ 1434.6 Beneficial interest.

* * * * *

(b) * * *

(1) Executes an option to purchase, whether or not a payment is made by the potential buyer for such option to purchase, with respect to such honey if all other eligibility requirements are met and the option to purchase contains the following provision:

''Notwithstanding any other provision of this option to purchase or any other contract, title and control of the honey and beneficial interest in the honey, as specified in 7 CFR 1434.6, must remain with the producer until the buyer exercises this option to purchase the honey. This option to purchase will expire, notwithstanding any action or inaction by either the producer or the buyer, at the earlier of:

(1) The maturity of any Commodity Credit Corporation (CCC) loan which is secured by such honey;

(2) The date the CCC claims title to such honey; or

(3) Such other date as provided in this option.''

* * * * *

■ 47. Amend § 1434.15 as follows:
■ a. Revise the section heading to read as set forth below;
■ b. Revise paragraph (c)(1) to read as set forth below; and
■ c. In paragraph (c)(2), remove the words ''25 percent'' and add, in their place, the words ''10 percent''.

§ 1434.15 Personal liability.

* * * * *

(c) * * *

(1) Acted in good faith when the violation occurred, liquidated damages will be assessed by multiplying the quantity involved in the violation by 10 percent of the loan rate applicable to the loan note for each offense.

* * * * *

■ 48. Amend § 1434.18 as follows:
■ a. In paragraph (a), add the words ''during the loan period'' immediately after the word ''loan''; and
■ b. Add paragraph (a)(3) to read as set forth below.

§ 1434.18 Loan repayments.

(a) * * *

(3) In the event of a severe disruption to marketing, transportation, or related infrastructure, the Secretary may modify the repayment rate otherwise applicable under this section for marketing assistance loans. Any adjustment made to the repayment rate for marketing assistance loans for honey under this part will be in effect on a short-term and temporary basis, as determined by the Secretary.

* * * * *

§ 1434.21 [Amended]

■ 49. Amend § 1434.21(a) by removing the years ''2002–2007'' and adding, in their place, the words ''2008 through 2012''.

§ 1434.22 [Removed]

§ 1434.23 [Redesignated as § 1434.22]

■ 50. Remove § 1434.22 and redesignate § 1434.23 as § 1434.22.

Signed in Washington, DC, on March 31, 2009.

Dennis J. Taitano,

Acting Executive Vice President, Commodity Credit Corporation.

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 24

[Docket ID OCC–2009–0006]

RIN 1557–AD12

Community and Economic Development Entities, Community Development Projects, and Other Public Welfare Investments

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is adopting in final form and without change the interim final rule, issued on August 11, 2008, which implemented the statutory change to national banks' community development investment authority made in the Housing and Economic Recovery Act of 2008 (HERA). The OCC also is revising Appendix 1 to part 24, the CD–1 National Bank Community Development (Part 24) Investments Form, to make technical changes that are consistent with the HERA provision and the revised regulation. Section 2503 of the HERA revised the community development investment authority in section 24(Eleventh) to restore a national bank's authority to make investments designed primarily to promote the public welfare.

DATES: *Effective Date:* April 7, 2009.

FOR FURTHER INFORMATION CONTACT: Stephen Van Meter, Assistant Director, Community and Consumer Law Division, (202) 874–5750; Michele Meyer, Assistant Director, Patrick T. Tierney, Senior Attorney, or Rebecca Smith, Attorney, Legislative and Regulatory Activities Division, (202) 874–5090, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Background

Introduction

The Financial Services Regulatory Relief Act of 2006 (FSRRA) [1] made a number of changes to 12 U.S.C. 24(Eleventh), the statute that authorizes national banks' community development investments.[2] Prior to its amendment by the FSRRA, 12 U.S.C. 24(Eleventh) authorized a national bank ''[t]o make investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as by providing housing, services, or jobs)'' (the public welfare test). The FSRRA, among other things, narrowed the grant of authority in section 24(Eleventh) by providing that a national bank may ''make investments directly or indirectly, each of which *promotes the public welfare by benefiting primarily* low- and moderate-income communities or families (such as by providing housing, services, or jobs).'' [3] On April 24, 2008, the OCC issued a final rule that implemented the

[1] Public Law 109–351, 120 Stat. 1966 (Oct. 13, 2006).

[2] *See* 12 CFR part 24 (2008) (implementing 12 U.S.C. 24(Eleventh)).

[3] Public Law 109–351, § 305, 120 Stat. at 1970–71 (emphasis added).

FSRRA's narrowing of the public welfare test.[4]

On July 30, 2008, the President signed into law the HERA, which reinstated the pre-FSRRA public welfare test.[5] Specifically, section 2503 of the HERA revised section 24(Eleventh) to provide that a national bank may "* * * make investments directly or indirectly, each of which *is designed primarily to promote the public welfare, including the welfare of* low- and moderate-income communities or families (such as by providing housing, services, or jobs)."[6]

On August 11, 2008, the OCC issued an interim final rule to implement section 2503 of the HERA.[7] Under section 2503 of the HERA and the revisions made by the interim final rule, national banks and their subsidiaries are able to make a broader range of investments that will strengthen and stabilize communities, including communities affected by rising foreclosures. The OCC is now adopting the interim final rule in final form without change.

Description of the Interim Final Rule

The interim final rule made the following revisions to part 24 in order to implement the HERA's changes to the public welfare test.

Definition of "Community and Economic Development Entity" (CEDE) (§ 24.2(c))

The interim final rule amended the definition of a CEDE in § 24.2(c) to implement the HERA change to the public welfare test. Thus, paragraph (c) of the interim final rule defined a CEDE as "an entity that makes investments or conducts activities that primarily benefit low- and moderate-income individuals, low- and moderate-income areas, or other areas targeted by a governmental entity for redevelopment, or would receive consideration as qualified investments under 12 CFR 25.23."

Removing the Definition of "Benefiting Primarily Low- and Moderate-Income Areas or Individuals" (§ 24.2(g))

As discussed above, the FSRRA authorized a national bank and its subsidiaries to make investments that promote the public welfare by "benefiting primarily" low- and moderate-income areas or individuals. The April 2008 final rule that implemented the FSRRA added a definition of "benefiting primarily low and moderate-income areas or individuals." Consistent with the HERA change to section 24(Eleventh), the August 2008 interim final rule removed the definition of "benefiting primarily low- and moderate-income areas or individuals" from part 24.

Public Welfare Investments (§ 24.3)

The interim final rule revised § 24.3, which authorizes national banks to make investments pursuant to section 24(Eleventh), to conform the wording of the regulation to the changes made by the HERA.

Examples of Qualifying Public Welfare Investments (§ 24.6)

Section 24.6 contains examples of qualifying public welfare investments. The interim final rule revised the introductory language in § 24.6 to reflect the HERA changes and restored to the examples references to investments in "targeted redevelopment areas," which were removed by the April 2008 FSRRA final rule.

Revision to Appendix 1 to Part 24, the CD–1 National Bank Community Development (Part 24) Investments Form

The interim final rule also revised Appendix 1 to part 24, the CD–1 National Bank Community Development (Part 24) Investments Form, to reflect the changes to the regulation.

Comments on the Interim Final Rule

The OCC's interim final rule included a request for public comment on the changes implementing the HERA's revisions to section 24(Eleventh). The comment period closed on September 10, 2008. The OCC received nine comments, seven of which addressed the interim final rule.[8] The seven commenters unanimously supported the interim final rule. One commenter expressed concern that, because many of the examples of qualifying public investments listed in § 24.6 pertain to investments that benefit low- and moderate-income areas or individuals, the list of examples could be interpreted as a requirement for national banks to demonstrate that the primary beneficiaries of an investment are low- and moderate-income individuals or areas. The commenter asserted that such an interpretation would be inconsistent with the flexibility afforded by the § 24.3 public welfare investment standard, which also permits investments in areas targeted by a governmental entity for redevelopment or investments that would be considered "qualified investments" under § 25.23 of the OCC's Community Reinvestment Act (CRA) regulations. The commenter encouraged the OCC to clarify that the HERA changes to part 24 provide national banks with additional flexibility to make community development investments.

We agree that § 24.6 serves as a non-exclusive list of examples that illustrate how a national bank may permissibly use its authority to make public welfare investments. The list cannot, and does not, restrict the express authorization in § 24.3, which, as the commenter noted, permits investments in areas targeted by a governmental entity for redevelopment or investments that would be considered "qualified investments" under § 25.23 of the CRA regulations. Moreover, to provide guidance to national banks and OCC bank examiners, the OCC provides detailed information about part 24 public welfare investments on its Web site at *http://www.occ.gov/cdd/pt24toppage.htm*. If, after reviewing § 24.6 and OCC's Web site, a national bank is still uncertain about whether a particular investment is permissible, the bank also may submit a prior approval request under § 24.5 and receive from the OCC a permissibility determination. Accordingly, the OCC has concluded that the list in § 24.6 need not include an example of each type of investment that part 24 and the statute permit.

Accordingly, the OCC has determined that it is appropriate to adopt as final the interim final rule as originally published on August 11, 2008.

Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (Pub. L. 96–354, Sept. 19, 1980) (RFA) applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b).[9] Pursuant to the Administrative Procedure Act (APA) at 5 U.S.C. 553(b)(B), general notice and an opportunity for public comment are not required prior to the issuance of a final rule when an agency, for good cause, finds that "notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest."[10]

For the reasons set forth in the interim final rule,[11] the OCC determined for good cause that the APA did not require general notice and public comment on

[4] 73 FR 22216 (Apr. 24, 2008).

[5] Public Law 110–289, § 2503, 122 Stat. 2654, 2857–58 (July 30, 2008).

[6] *Id.* (emphasis added).

[7] 73 FR 46532 (Aug. 11, 2008).

[8] Two commenters objected to a separate and unrelated HERA provision that places restrictions on down payment assistance programs. The OCC is not authorized to implement this provision, and it was not the subject of this rulemaking action.

[9] 5 U.S.C. 601(2).

[10] 5 U.S.C. 553(b)(B).

[11] 73 FR 46534 (Aug. 11, 2008).

the interim final rule and, therefore, did not publish a general notice of proposed rulemaking. Thus, the RFA, pursuant to 5 U.S.C. 601(2), does not apply to this final rule.

Executive Order 12866

The OCC has concluded that this final rule is not a significant regulatory action under Executive Order 12866. The changes made by this final rule will not have an annual effect on the economy of $100 million or more within the meaning of Executive Order 12866. The OCC further concludes that this final rule does not meet any of the other standards for a significant regulatory action set forth in Executive Order 12866.

Unfunded Mandates Reform Act of 1995 Determinations

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4 (2 U.S.C. 1532) (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating any final rule for which a general notice of proposed rulemaking was published. As discussed above, the OCC determined for good cause that the APA did not require general notice and public comment on the interim final rule and, therefore, the OCC did not publish a general notice of proposed rulemaking. Accordingly, the final rule is not subject to section 202 of the Unfunded Mandates Act.

Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), the OCC has reviewed the final rule and determined that it contains no collections of information as defined by the Paperwork Reduction Act.

Lists of Subjects in 12 CFR Part 24

Community development, Credit, Investments, Low and moderate income housing, National banks, Reporting and recordkeeping requirements, Rural areas, Small businesses.

■ For the reasons set forth in the preamble, under the authority at 12 U.S.C. 24(Eleventh), 93a, 481 and 1818, the interim rule amending 12 CFR part 24, which was published at 73 FR 46532 on August 11, 2008, is adopted as final with the following change:

PART 24—COMMUNITY AND ECONOMIC DEVELOPMENT ENTITIES, COMMUNITY DEVELOPMENT PROJECTS, AND OTHER PUBLIC WELFARE INVESTMENTS

■ 1. The authority citation for part 24 continues to read as follows:

Authority: 12 U.S.C. 24(Eleventh), 93a, 481 and 1818.

■ 2. Appendix 1 to Part 24 is revised to read as follows:

APPENDIX 1 TO PART 24—CD–1—NATIONAL BANK COMMUNITY DEVELOPMENT (PART 24) INVESTMENTS

BILLING CODE 4810–33–P

Comptroller of the Currency
Administrator of National Banks

CD-1 – National Bank Community Development (Part 24) Investments

For Official Use Only

OMB Number
1557-0194

A national bank or national bank subsidiary may make an investment directly or indirectly designed primarily to promote the public welfare under the community development investment authority in 12 USC 24(Eleventh) and its implementing regulation 12 CFR 24 (Part 24). Part 24 contains the OCC standards for determining whether an investment is designed to promote the public welfare and procedures that apply to those investments. National banks must submit the completed form to provide an after-the-fact notice or to request prior approval of a public welfare investment to the Community Affairs Department, Office of the Comptroller of the Currency, Washington, DC 20219. Please contact the Community Affairs Department at (202) 874-4930 or CommunityAffairs@occ.treas.gov for more information.

PLEASE PROVIDE THE FOLLOWING INFORMATION ABOUT THE INVESTING BANK.

Bank name:	Mailing address *(street or P.O. box)*:
Bank charter number:	City, State, ZIP Code:
Telephone number:	Fax number:
E-mail address:	URL:

CONTACT FOR INFORMATION:

Name of bank contact responsible for form's information:	Name of bank contact responsible for CD investment (if different):
Mailing address *(street or P.O. box)*:	Mailing address *(street or P.O. box)*:
City, State, ZIP Code:	City, State, ZIP Code:
Telephone number:	Telephone number:
Fax number:	Fax number:
E-mail address.	E-mail address.

PLEASE INDICATE THE PROCESS THE BANK REQUESTS BY CHECKING THE APPROPRIATE BOX, BELOW.

After-the-fact notice (12 CFR 24.5(a)) - complete sections 1 and 2. ☐

Prior approval (12 CFR 24.5(b)) - complete section 2. ☐

Section 1 – After-The-Fact Notice Only (12 CFR 24.5(a))

A bank may provide an after-the-fact notice of its Part 24 investment if the bank responds affirmatively to all of the following requirements.

The bank is "well-capitalized," as defined in 12 CFR 24 2(i). Yes ☐ No ☐

The bank has a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System. Yes ☐ No ☐

The bank's most recent Community Reinvestment Act rating is satisfactory or outstanding. Yes ☐ No ☐

The bank is not under a cease and desist order, consent order, formal written agreement, or Prompt Corrective Action directive.

Yes ☐ No ☐

Including this investment, the bank's aggregate outstanding investments and commitments under Part 24 do not exceed 5 percent of its capital and surplus, unless the OCC has provided written approval of a written request by the bank allowing the bank to provide after-the-fact notices for investments that would raise the aggregate amount of the bank's Part 24 investments beyond 5 percent of its capital and surplus.

Yes ☐ No ☐

The investment does not involve properties carried on the bank's books as "other real estate owned." Yes ☐ No ☐

The OCC has not determined, in published guidance, that the investment is inappropriate for the after-the-fact notification.

Yes ☐ No ☐

Has the bank responded affirmatively to all of the above requirements in order to provide an after-the-fact notice of its Part 24 investment? [The OCC may have provided written notification that the bank may submit Part 24 after-the-fact notices. If so, please provide the date or a copy of the OCC's written notification.]

Yes ☐ (The bank may make an investment authorized by 12 USC 24(Eleventh) and this part and notify the OCC within 10 working days by submitting a completed after-the-fact notice.)

No ☐ (The bank must seek prior OCC approval of its investment and submit a completed investment proposal before making the investment.)

(To complete the after-the-fact notice process or to request prior OCC approval, please proceed to section 2 of this form.)

Section 2 — All Requests

1. **Please indicate how the bank's investment is consistent with Part 24 requirements for public welfare investments, under 12 CFR 24.3.**

   a. Check at least one of the following that applies to the bank's investment:

   The investment primarily benefits low- and moderate-income individuals. ☐

   The investment primarily benefits low- and moderate-income areas. ☐

   The investment primarily benefits other areas targeted by a governmental entity for redevelopment. ☐

   The investment would receive consideration under 12 CFR 25.23 as a "qualified investment" for purposes of the Community Reinvestment Act. ☐

2. **Please indicate how the bank's investment is consistent with Part 24 requirements for investment limits under 12 CFR 24.4 by responding to the following questions.**

   a. Dollar amount of the bank's investment that is the subject of this submission: _____.

   b. Percentage of the bank's capital and surplus represented by the bank's investment that is the subject of this submission: _____%.

   c. Percentage of the bank's capital and surplus represented by the aggregate outstanding Part 24 investments and commitments, including this investment: _____%.

   d. Does this investment expose the bank to unlimited liability?

   Yes ☐ (This investment cannot be made under Part 24.)

   No ☐

3. **Please attach a brief description of the bank's investment. (*See* 12 CFR 24.5(a)(3)(i) and (b)(2)(i)). Include the following information in the description.**

   a. The name of the community and economic development entity (CEDE) into which the bank's investment has been (or will be) made.

   b. The type of bank investment (equity, debt, or other).

   c. The activity or activities of the CEDE in which the bank has invested (or will invest). (*See* examples of qualifying investment activities described in 12 CFR 24.6 (a), (b), (c), and (d).)

   d. How the investment is structured so that it does not expose the bank to unlimited liability, such as by describing the structure of the CEDE (*e.g.*, CDC subsidiary, multi-bank CDC, multi-investor CDC, limited partnership, limited liability company, community development bank, community development financial institution, community development entity, community development venture capital fund, community development lending consortia, community development closed-end mutual funds, non-diversified closed-end investment companies, or any other CEDE) and by providing any other relevant information.

   e. The geographic area served by the CEDE.

   f. The total funding or other support by community development partners involved in the project (*e.g.*, government or public agencies, nonprofits, other investors), if known.

g. Supplemental information (*e.g.*, prospectus, annual report. Web address that contains information about the CEDE in which the investment is or will be made), if available

4. Evidence of qualification is readily available for examination purposes.

The bank maintains information concerning this investment in a form readily accessible and available for examination that supports the certifications contained in this form and demonstrates that the investment meets the standards set out in 12 CFR 24.3, including, where applicable, the criteria of 12 CFR 25.23.

Yes ☐ No ☐

5. Certification

The undersigned hereby certifies that the foregoing information in this form is accurate and complete. It is further certified that the undersigned is authorized to file this form on Part 24 investments for the bank.

Name: _____

Title: _____

Signature: _____

Date: _____

THE SPACE BELOW MAY BE USED TO DESCRIBE THE BANK'S CD INVESTMENT AS REQUESTED IN SECTION 2, QUESTION 3.

Dated: March 31, 2009.

John C. Dugan,

Comptroller of the Currency.

[FR Doc. E9–7861 Filed 4–6–09; 8:45 am]

BILLING CODE 4810–33–C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0313; Directorate Identifier 2008–NM–144–AD; Amendment 39–15769; AD 2008–26–03]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–102, DHC–8–103, DHC–8–106, DHC–8–201, DHC–8–202, DHC–8–301, DHC–8–311, and DHC–8–315 Airplanes Equipped With a Cockpit Door Electronic Strike System Installed in Accordance With Supplemental Type Certificate (STC) ST02014NY

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting airworthiness directive (AD) 2008–26–03. This AD requires modifying the electronic strike system of the cockpit door. This AD results from a report indicating that the equipment is defective. We are issuing this AD to prevent failure of this equipment, which could compromise flight safety.

DATES: This AD becomes effective April 13, 2009 to all persons.

We must receive comments on this AD by May 7, 2009.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, 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.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Fabio Buttitta, Aerospace Engineer, Systems and Flight Test Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7303; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified us that an unsafe condition may exist on Bombardier Model DHC–8–102, DHC–8–103, DHC–8–106, DHC–8–201, DHC–8–202, DHC–8–301, DHC–8–311, and DHC–8–315 airplanes equipped with a cockpit door electronic strike system installed in accordance with supplemental type certificate (STC) SA03–70 issue No. 1 or issue No. 2 (which is equivalent to STC ST02014NY). TCCA advises that the electronic strike system of the cockpit door is defective. (STC SA03–70 issue No. 3 incorporates the enhanced security measures for these doors.) Defective equipment, if not corrected, could compromise flight safety. Transport Canada Civil Aviation (TCCA) issued Canadian airworthiness directive CF–2008–26R1, dated August 15, 2008 (referred to after this as the Mandatory Continuing Airworthiness Information or ''MCAI'') to ensure the continued airworthiness of these airplanes in Canada.

FAA's Determination and Requirements of this AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI referenced above. We are issuing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Therefore, we are issuing AD 2008–26–03 to prevent failure of the electronic strike system, which could compromise flight safety. This AD requires modifying the electronic strike system of the cockpit door in accordance with a method approved by the Manager, New York Aircraft Certification Office (ACO), FAA.

None of the airplanes affected by this action are on the U.S. Register. Therefore, providing notice and opportunity for public comment is unnecessary before this AD is issued, and this AD may be made effective in less than 30 days after it is published in the **Federal Register**. However, this rule is necessary to ensure that the described unsafe condition is addressed if any of these products are placed on the U.S. Register in the future. The AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments before it becomes effective. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2009–0313; Directorate Identifier 2008–NM–144–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation

is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

For the reasons discussed above, I certify that the regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–26–03 TTF Aerospace LLC: Amendment 39–15769. Docket No. FAA–2009–0313; Directorate Identifier 2008–NM–144–AD.

Effective Date

(a) This sensitive security airworthiness directive (AD) is effective April 13, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier Model DHC–8–102, DHC–8–103, DHC–8–106, DHC–8–201, DHC–8–202, DHC–8–301, DHC–8–311, and DHC–8–315 airplanes, certificated in any category, equipped with a cockpit door electronic strike system installed in accordance with supplemental type certificate (STC) ST02014NY (which is equivalent to STC SA03–70).

Unsafe Condition

(d) This AD results from a report indicating that the equipment is defective. We are issuing this AD to prevent failure of this equipment, which could compromise flight safety.

Compliance

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

Modification

(f) Within 90 days after the effective date of this AD, modify the electronic strike system of the cockpit door in accordance with a method approved by the Manager, New York Aircraft Certification Office (ACO), FAA, or Transport Canada Civil Aviation (TCCA) (or its delegated agent).

Alternative Methods of Compliance (AMOCs)

(g)(1) The Manager, New York ACO, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Fabio Buttitta, Aerospace Engineer, Systems and Flight Test Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7303; fax (516) 794–5531.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

Related Information

(h) Canadian airworthiness directive CF–2008–26R1, dated August 15, 2008, also addresses the subject of this AD.

Material Incorporated by Reference

(i) None.

Issued in Renton, Washington, on March 30, 2009.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–7781 Filed 4–6–09; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 232, 239 and 249

[Release Nos. 33–9002A; 34–59324A; 39–2461A; IC–28609A; File No. S7–11–08]

RIN 3235–AJ71

Interactive Data To Improve Financial Reporting

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; correction.

SUMMARY: We are making technical corrections to rules adopted in Release No. 33–9002 (January 30, 2009), which were published in the **Federal Register** on February 10, 2009 (74 FR 6776). The rules relate to requiring specified public companies and foreign private issuers to provide financial statement information to the Commission and on their corporate Web sites in interactive data format using the eXtensible Business Reporting Language (XBRL).

DATES: *Effective Date:* April 13, 2009.

FOR FURTHER INFORMATION CONTACT: Mark W. Green, Senior Special Counsel (Regulatory Policy), Division of Corporation Finance at (202) 551–3430; or Jeffrey W. Naumann, Assistant Director, Office of Interactive Disclosure at (202) 551–5352, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–3628.

SUPPLEMENTARY INFORMATION: We are correcting Rules 201,[1] 202[2] and 405[3] of Regulation S–T[4] and Forms F–9[5] and F–10[6] under the Securities Act of 1933 (Securities Act)[7] and Forms 20–F,[8] 40–F[9] and 6–K[10] under the Securities Exchange Act of 1934 (Exchange Act)[11] as published.[12]

I. Discussion of Corrections

A. Rule 201—Temporary Hardship Exemption

In the introductory text of paragraph (a)[13] of Rule 201, we inadvertently omitted language that became part of the text effective January 1, 2009[14] and serves to exclude from temporary hardship exemption availability an application for an order under any section of the Investment Company Act.[15] We are correcting that omission.

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[1] 17 CFR 232.201.
[2] 17 CFR 232.202.
[3] 17 CFR 232.405.
[4] 17 CFR 232.10 *et seq.*
[5] 17 CFR 239.39.
[6] 17 CFR 239.40.
[7] 15 U.S.C. 77a *et seq.*
[8] 17 CFR 249.220f.
[9] 17 CFR 249.240f.
[10] 17 CFR 249.306.
[11] 15 U.S.C. 78a *et seq.*
[12] The corrections we are making in this release do not affect the amendments we adopted in Release No. 33–9006 (Feb. 11, 2009) [74 FR 7748] even though some of the amendments restated text that we now are correcting. We anticipate, however, that we will make conforming corrections to such amendments.
[13] 17 CFR 232.201(a).
[14] See Release No. 33–8981 (Oct. 29, 2008) [73 FR 65516].
[15] 15 U.S.C. 80a–1 *et seq.*

B. Rule 202—Continuing Hardship Exemption

We are correcting a typographical error in the introductory text of paragraph (a) [16] of Rule 202 and correcting paragraphs (a)(2) [17] and (b)(2) [18] of Rule 202 by adding words and punctuation inadvertently omitted.

C. Rule 405—Interactive Data File Submissions and Postings

We are correcting cross-references in preliminary note 1 to, paragraph (a) [19] of, and the note following, Rule 405.

D. Forms F–9 and F–10—Securities Act Registration Statements

We are correcting typographical errors in the amendatory language for Forms F–9 and F–10 and correcting typographical errors and cross-references in paragraph (101) of Part II—Information not Required to be Delivered to Offerrees or Purchasers of both forms.

E. Form 20–F—Exchange Act Annual Report and Registration Statement

We are correcting cross-references in paragraph 101 of the Instructions as to Exhibits of Form 20–F.

F. Form 40–F

We are correcting an erroneous new paragraph number and typographical error in the amendatory language related to Form 40–F and correcting the paragraph number of, and cross-references and a typographical error in, the new paragraph added to General Instruction B of the form. We inadvertently designated the new paragraph with the number of an existing paragraph. We are correcting that error by designating the new paragraph as paragraph (15) of General Instruction B.

G. Form 6–K

We are correcting a typographical error in the amendatory language related to adding a new last paragraph to General Instruction C of Form 6–K and correcting cross-references and typographical errors within, and the designation of the last subparagraph of, the new paragraph. We are designating the last subparagraph of the new paragraph as ''(c).''

II. Correction of Publication

■ Accordingly, we correct the rules in Release No. 33–9002 (January 30, 2009) as published in the **Federal Register** on February 10, 2009 (74 FR 6776) in FR Doc. E9–2334 as follows:

§ 232.201 [Corrected]

■ 1. On page 6813, in the second column, in the fourteenth line of the introductory text of paragraph (a) of § 232.201, ''chapter), or an Interactive Data File'' is corrected to read ''chapter), an application for an order under any section of the Investment Company Act (15 U.S.C. 80a–1 *et seq.*), or an Interactive Data File''.

§ 232.202 [Corrected]

■ 2. On page 6813, in the third column, in the seventeenth line of the introductory text of paragraph (a) of § 232.202, ''of'' is corrected to read ''or''.

■ 3. On page 6813, in the third column, in the tenth line of paragraph (a)(2) of § 232.202, ''filing or submission date,'' is corrected to read ''filing, submission, or posting date,''.

■ 4. On page 6813, in the third column, in the first line of paragraph (b)(2) of § 232.202, ''expense to'' is corrected to read ''expense involved to''.

§ 232.405 [Corrected]

■ 5. On page 6814, in the third column, the last seventeen lines of Preliminary Note 1 to § 232.405 are corrected to read as follows:

''(§ 229.601(b)(101) of this chapter), paragraph (101) of Part II—Information not Required to be Delivered to Offerees or Purchasers of both Form F–9 (§ 239.39 of this chapter) and Form F–10 (§ 239.40 of this chapter), paragraph 101 of the Instructions as to Exhibits of Form 20–F (§ 249.220f of this chapter), paragraph B.(15) of the General Instructions to Form 40–F (§ 249.240f of this chapter) and paragraph C.(6) of the General Instructions to Form 6–K (§ 249.306 of this chapter) specify when electronic filers are required or permitted to submit or post an Interactive Data File (§ 232.11), as further described in the Note to § 232.405.''

■ 6. On page 6814, in the third column, the introductory text of paragraph (a)(2) of § 232.405 is corrected to read as follows:

''(2) Be submitted only by an electronic filer either required or permitted to submit an Interactive Data File as specified by Item 601(b)(101) of Regulation S–K, paragraph (101) of Part II—Information not Required to be Delivered to Offerees or Purchasers of either Form F–9 or Form F–10, paragraph 101 of the Instructions as to Exhibits of Form 20–F, paragraph B.(15) of the General Instructions to Form 40–F or paragraph C.(6) of the General Instructions to Form 6–K, as applicable, as an exhibit to:''

■ 7. Beginning on page 6814 in the third column and continuing on page 6815 in the first column, paragraph (a)(3) of § 232.405 is corrected to read as follows:

''(3) Be submitted in accordance with the EDGAR Filer Manual and, as applicable, either Item 601(b)(101) of Regulation S–K, paragraph (101) of Part II—Information not Required to be Delivered to Offerees or Purchasers of either Form F–9 or Form F–10, paragraph 101 of the Instructions as to Exhibits of Form 20–F, paragraph B.(15) of the General Instructions to Form 40–F or paragraph C.(6) of the General Instructions to Form 6–K; and''

■ 8. On page 6815, in the first column, paragraph (a)(4) of § 232.405 is corrected to read as follows:

''(4) Be posted on the electronic filer's corporate Web site, if any, in accordance with, as applicable, either Item 601(b)(101) of Regulation S–K, paragraph (101) of Part II—Information not Required to be Delivered to Offerees or Purchasers of either Form F–9 or Form F–10, paragraph 101 of the Instructions as to Exhibits of Form 20–F, paragraph B.(15) of the General Instructions to Form 40–F or paragraph C.(6) of the General Instructions to Form 6–K.''

■ 9. On page 6816, in the first column, the Note to § 232.405 is corrected to read as follows:

''Note to § 232.405: Item 601(b)(101) of Regulation S–K specifies the circumstances under which an Interactive Data File must be submitted as an exhibit and be posted to the issuer's corporate Web site, if any, and the circumstances under which it is permitted to be submitted as an exhibit, with respect to Forms S–1 (§ 239.11 of this chapter), S–3 (§ 239.13 of this chapter), S–4 (§ 239.25 of this chapter), S–11 (§ 239.18 of this chapter), F–1 (§ 239.31 of this chapter), F–3 (§ 239.33 of this chapter), F–4 (§ 239.34 of this chapter), 10–K (§ 249.310 of this chapter), 10–Q (§ 249.308a of this chapter) and 8–K (§ 249.308 of this chapter). Paragraph (101) of Part II—Information not Required to be Delivered to Offerees or Purchasers of both Form F–9 and Form F–10 specifies the circumstances under which an Interactive Data File must be submitted as an exhibit and be posted to the issuer's corporate Web site, if any, and the circumstances under which it is permitted to be submitted as an exhibit, with respect to Form F–9 and Form F–10, respectively. Paragraph 101 of the Instructions as to Exhibits of Form 20–F specifies the circumstances under which an Interactive Data File must be submitted as an exhibit and be posted to the issuer's corporate Web site, if any, and the circumstances under which it is permitted to be submitted as an exhibit, with respect to Form 20–F. Paragraph B.(15) of the General Instructions to Form 40–F and Paragraph C.(6) of the General Instructions to Form 6–K specify the circumstances under which an Interactive Data File must be submitted as an exhibit and be posted to the issuer's corporate Web site, if any, and the circumstances under which it is permitted to be submitted as an exhibit, with respect to Form 40–F and Form 6–K, respectively. Item 601(b)(101) of Regulation S–K, paragraph (101) of Part II—Information not Required to be Delivered to Offerees or Purchasers of both

[16] 17 CFR 202(a).
[17] 17 CFR 202(a)(2).
[18] 17 CFR 202(b)(2).
[19] 17 CFR 405(a).

Form F–9 and Form F–10, paragraph 101 of the Instructions as to Exhibits of Form 20–F, paragraph B.(15) of the General Instructions to Form 40–F and paragraph C.(6) of the General Instructions to Form 6–K all prohibit submission of an Interactive Data File by an issuer that prepares its financial statements in accordance with Article 6 of Regulation S–X (17 CFR 210.6–01 *et seq.*)''.

§ 239.39 [Corrected]

■ 10. On page 6817, in the third column, the amendatory language for amendment 21 is corrected to read as follows:

''21. Amend Form F–9 (referenced in § 239.39) by reserving paragraphs (8) through (100) and adding paragraph (101) at the end of ''Part II—Information not Required to be Delivered to Offerees or Purchasers'' to read as follows:''.

■ 11. Beginning on page 6817, in the third column and continuing on page 6818 in the first column, paragraph (101) of Part II—Information not Required To Be Delivered to Offerees or Purchasers of Form F–9, correct paragraphs (101)(a), introductory text, (101)(a)(ii), (101)(a)(iii), and (101)(b)(ii) to read as follows:

''(101) * * *

(a) *Required to be submitted and posted.* Required to be submitted to the Commission and posted on the registrant's corporate Web site, if any, in the manner provided by Rule 405 of Regulation S–T (§ 232.405 of this chapter) if the Registrant does not prepare its financial statements in accordance with Article 6 of Regulation S–X (17 CFR 210.6–01 *et seq.*) and is described in subparagraph (a)(i), (ii), or (iii) of this paragraph (101), except that an Interactive Data File: first is required for a periodic report on Form 10–Q (§ 249.308a of this chapter), Form 20–F (§ 249.220f of this chapter) or Form 40–F (§ 249.240f of this chapter), as applicable; and is required for a registration statement under the Securities Act only if the registration statement contains a price or price range:

* * * * *

(ii) A large accelerated filer not specified in subparagraph (a)(i) of this paragraph (101) that prepares its financial statements in accordance with generally accepted accounting principles as used in the United States and the filing contains financial statements of the registrant for a fiscal period that ends on or after June 15, 2010; or

(iii) A filer not specified in subparagraph (a)(i) or (a)(ii) of this paragraph (101) that prepares its financial statements in accordance with either generally accepted accounting principles as used in the United States or International Financial Reporting Standards as issued by the International Accounting Standards Board, and the filing contains financial statements of the registrant for a fiscal period that ends on or after June 15, 2011.

(b) * * *

(ii) Interactive Data File is not required to be submitted to the Commission under subparagraph (a) of this paragraph (101).''

§ 239.40 [Corrected]

■ 12. On page 6818, in the first column, the amendatory language for amendment 22 is corrected to read as follows:

22. ''Amend Form F–10 (referenced in § 239.40) by reserving paragraphs (8) through (100) and adding paragraph (101) at the end of ''Part II—Information not Required to be Delivered to Offerees or Purchasers'' to read as follows:''.

■ 13. On page 6818, beginning in the second column and continuing on to the third column, paragraph (101) of Part II—Information not Required To Be Delivered to Offerees or Purchasers of Form F–10, correct paragraphs (101)(a), introductory text, (101)(a)(ii), (101)(a)(iii), and (101)(b)(ii) to read as follows:

''(101) * * *

(a) *Required to be submitted and posted.* Required to be submitted to the Commission and posted on the registrant's corporate Web site, if any, in the manner provided by Rule 405 of Regulation S–T (§ 232.405 of this chapter) if the Registrant does not prepare its financial statements in accordance with Article 6 of Regulation S–X (17 CFR 210.6–01 *et seq.*) and is described in subparagraph (a)(i), (ii), or (iii) of this paragraph (101), except that an Interactive Data File: first is required for a periodic report on Form 10–Q (§ 249.308a of this chapter), Form 20–F (§ 249.220f of this chapter) or Form 40–F (§ 249.240f of this chapter), as applicable; and is required for a registration statement under the Securities Act only if the registration statement contains a price or price range:

* * * * *

(ii) A large accelerated filer not specified in subparagraph (a)(i) of this paragraph (101) that prepares its financial statements in accordance with generally accepted accounting principles as used in the United States and the filing contains financial statements of the registrant for a fiscal period that ends on or after June 15, 2010; or

(iii) A filer not specified in subparagraph (a)(i) or (a)(ii) of this paragraph (101) that prepares its financial statements in accordance with either generally accepted accounting principles as used in the United States or International Financial Reporting Standards as issued by the International Accounting Standards Board, and the filing contains financial statements of the registrant for a fiscal period that ends on or after June 15, 2011.

(b) * * *

(ii) Interactive Data File is not required to be submitted to the Commission under subparagraph (a) of this paragraph (101).''

§ 249.220f [Corrected]

■ 14. On page 6819, in the third column, paragraphs (a)(ii) and (a)(iii) of paragraph 101 of the Instructions as to Exhibits of Form 20–F are corrected to read as follows:

''(ii) A large accelerated filer not specified in subparagraph (a)(i) of this paragraph 101 that prepares its financial statements in accordance with generally accepted accounting principles as used in the United States and the filing contains financial statements of the registrant for a fiscal period that ends on or after June 15, 2010; or

(iii) A filer not specified in subparagraph (a)(i) or (a)(ii) of this paragraph 101 that prepares its financial statements in accordance with either generally accepted accounting principles as used in the United States or International Financial Reporting Standards as issued by the International Accounting Standards Board, and the filing contains financial statements of the registrant for a fiscal period that ends on or after June 15, 2011.''

■ 15. On page 6820, in the first column, paragraph (b)(ii) of paragraph 101 of the Instructions as to Exhibits of Form 20–F is corrected to read as follows:

''(ii) Interactive Data File is not required to be submitted to the Commission under subparagraph (a) of this paragraph 101.''

§ 249.240f [Corrected]

■ 16. On page 6820, in the first column, in the first line of amendment 31.b, ''Add paragraph B.(7)'' is corrected to read ''Adding paragraph B.(15)''.

■ 17. On page 6820, in the first column, in the first line under the heading General Instruction B., ''(7)'' is corrected to read ''(15)''.

■ 18. On page 6820, in the first column, in the ninth line of the introductory text of newly corrected paragraph B.(15)(a) of the General Instructions of Form 40–F, ''registrant is does'' is corrected to read ''registrant does''.

■ 19. On page 6820, in the second column, paragraphs (a)(ii) and (a)(iii) of newly corrected paragraph B.(15) of the General Instructions of Form 40–F are corrected to read as follows:

''(ii) A large accelerated filer not specified in subparagraph (a)(i) of this paragraph (15) that prepares its financial statements in accordance with generally accepted accounting principles as used in the United States and the filing contains financial statements of the registrant for a fiscal period that ends on or after June 15, 2010; or

(iii) A filer not specified in subparagraph (a)(i) or (a)(ii) of this paragraph (15) that prepares its financial statements in accordance with either generally accepted accounting principles as used in the United States or International Financial Reporting Standards as issued by the International Accounting Standards Board, and the filing contains financial statements of the registrant for a fiscal period that ends on or after June 15, 2011.''

■ 20. On page 6820, in the second column, paragraph (b)(ii) of newly

corrected paragraph B.(15) of the General Instructions of Form 40–F is corrected to read as follows:

''(ii) Interactive Data File is not required to be submitted to the Commission under subparagraph (a) of this paragraph (15).''

§ 249.306 [Corrected]

■ 21. On page 6820, in the second column, the amendatory language for amendment 32, is corrected to read as follows:

''32. Amend Form 6–K (referenced in § 249.306) by revising paragraph (5) and adding paragraph (6) to General Instruction C to read as follows:''.

■ 22. Beginning on page 6820 in the third column and continuing on page 6821 in the first and second columns, correct paragraphs (6)(a), introductory text, (6)(a)(ii), (6)(a)(iii), and (6)(b)(ii) to General Instruction C of Form 6–K to read as follows:

''(6) * * *

(a) *Required to be submitted and posted.* Required to be submitted to the Commission and posted on the registrant's corporate Web site, if any, in the manner provided by Rule 405 of Regulation S–T (§ 232.405 of this chapter) and, as submitted, listed as exhibit 101, if the registrant does not prepare its financial statements in accordance with Article 6 of Regulation S–X (17 CFR 210.6–01 *et seq.*) and is described in subparagraph (a)(i), (ii), or (iii) of this paragraph (6), except that an Interactive Data File: first is required for a periodic report on Form 10–Q (§ 249.308a of this chapter), Form 20–F (§ 249.220f of this chapter) or Form 40–F (§ 249.240f of this chapter), as applicable; and is required for a Form 6–K (§ 249.306 of this chapter) only when the Form 6–K contains either of the following: audited annual financial statements that are a revised version of financial statements that previously were filed with the Commission that have been revised pursuant to applicable accounting standards to reflect the effects of certain subsequent events, including a discontinued operation, a change in reportable segments or a change in accounting principle; or current interim financial statements included pursuant to the nine-month updating requirement of Item 8.A.5 of Form 20–F, and, in either such case, the Interactive Data File would be required only as to such revised financial statements or current interim financial statements regardless of whether the Form 6–K contains other financial statements:

* * * * *

(ii) A large accelerated filer not specified in subparagraph (a)(i) of this paragraph (6) that prepares its financial statements in accordance with generally accepted accounting principles as used in the United States and the filing contains financial statements of the registrant for a fiscal period that ends on or after June 15, 2010; or

(iii) A filer not specified in subparagraph (a)(i) or (ii) of this paragraph (6) that prepares its financial statements in accordance with either generally accepted accounting principles as used in the United States or International Financial Reporting Standards as issued by the International Accounting Standards Board, and the filing contains financial statements of the registrant for a fiscal period that ends on or after June 15, 2011.

(b) * * *

(ii) Interactive Data File is not required to be submitted to the Commission under subparagraph (a)(i) of this paragraph (6).''

■ 23. On page 6821, second column, paragraph ''(iii)'' designation is corrected to read paragraph ''(c)''.

Dated: April 1, 2009.

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–7778 Filed 4–6–09; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 080404529–81598–02]

RIN 0648–AW61

Atlantic Highly Migratory Species; Atlantic Swordfish Quotas

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

ACTION: Final rule.

SUMMARY: This final rule would adjust the North and South Atlantic swordfish quotas for the 2008 fishing year (January 1, 2008, through December 31, 2008) to account for 2007 underharvests, to the extent allowable, and transfer 18.8 metric tons (mt) dressed weight (dw) to Canada per the 2006 International Commission for the Conservation of Atlantic Tunas (ICCAT) recommendations 06–02 and 06–03. The North Atlantic 2008 directed baseline quotas plus the 2007 underharvest would be divided equally between the semiannual periods of January through June, and July through December. The adjustment of the swordfish quotas, to account for underharvests is administrative in nature and does not require a change to regulatory text.

DATES: This rule is effective on May 7, 2009.

ADDRESSES: For copies of the supporting documents, including the proposed rule (73 FR 68398, November 18, 2008); the 2007 Environmental Assessment (EA), Regulatory Impact Review (RIR), and Final Regulatory Flexibility Analysis (FRFA); and the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP), please write to Highly Migratory Species Management Division, 1315 East–West Highway, Silver Spring, MD 20910, visit the HMS website at *http://www.nmfs.noaa.gov/sfa/hms/*, or contact LeAnn Southward Hogan.

FOR FURTHER INFORMATION CONTACT: LeAnn Southward Hogan or Karyl Brewster–Geisz by phone: 301–713–2347 or by fax: 301–713–1917.

SUPPLEMENTARY INFORMATION: The U.S. Atlantic swordfish fishery is managed under the 2006 Consolidated HMS FMP. Implementing regulations at 50 CFR part 635 are issued under the authority of the Magnuson–Stevens Fishery Conservation and Management Act (Magnuson–Stevens Act), 16 U.S.C. 1801 *et seq.*, and the Atlantic Tunas Convention Act (ATCA), 16 U.S.C. 971 *et seq.* Regulations issued under the authority of ATCA carry out the recommendations of ICCAT as necessary and appropriate.

NMFS published a proposed rule on November 18, 2008 (73 FR 68398), announcing the proposed adjustment of the 2008 North and South Atlantic swordfish baseline quotas for the 2008 fishing year to account for 2007 underharvests per 50 CFR 635.27(c) and ICCAT recommendations, and to conduct the annual reserve transfer of 18.8 metric ton (mt) dressed weight (dw) to Canada. The proposed rule also proposed modifications to the vessel chartering regulations. On December 11, 2008, NMFS published a notice (73 FR 75382) extending the public comment period until January 16, 2009, to give the public more time and opportunities to comment on the proposed rule. Information regarding the proposed rule can be found in the preamble of the proposed rule and are not repeated here.

1. Swordfish Quota

a. North Atlantic

The final rule adjusts the total available quota for the 2008 fishing year to account for the 2007 underharvests to the maximum extent allowable, consistent with ICCAT recommendation 06–02. The 2008 North Atlantic swordfish baseline quota is 2,937.6 mt dw. The total North Atlantic swordfish underharvest for 2007 was 3,220.1 mt dw, which exceeds the maximum carryover cap of 1,468.8 mt dw. Therefore, NMFS is carrying forward the maximum allowable capped amount during the defined management period (2007–2008) per ICCAT recommendation 06–02. Thus, the baseline quota plus the underharvest carryover maximum of 1,468.8 mt dw

equals an adjusted quota of 4,406.4 mt dw for the 2008 fishing year. Per regulations at 50 CFR 635.27(c)(3), the directed category would be allocated 3,620.7 mt dw, the incidental category would be allocated 300 mt dw, and the reserve category would be reduced from a quota of 504.5 mt dw to 485.7 due to the transfer of 18.8 mt dw to Canada (Table 1).

b. South Atlantic

As with the North Atlantic swordfish recommendation, ICCAT recommendation 06–03 establishes a cap on the amount of underharvest that can be carried forward during the defined management period (2007–2009). For South Atlantic swordfish, the United States is limited to carrying forward 100 mt ww (75.2 mt dw). The 2008 South Atlantic swordfish baseline quota is 75.2 mt dw. The total South Atlantic swordfish underharvest for 2007 was 150.4 mt dw, which exceeds the maximum carryover cap of 75.2 mt dw. Therefore, NMFS is carrying forward the capped amount per ICCAT recommendation 06–03. As a result, the baseline quota plus the underharvest carryover maximum of 75.2 mt dw equals an adjusted quota of 150.4 mt dw for the 2008 fishing year (Table 1).

TABLE 1 — LANDINGS AND QUOTAS FOR THE ATLANTIC SWORDFISH FISHERIES (2005 – 2008)

North Atlantic Swordfish Quota (mt dw)		**2005**	**2006**	**2007**	**2008 preliminary**
Baseline Quota		2,937.6	2,937.6	2,937.6	2,937.6
Quota Carried Over		3,359.1	4,691.2	1,468.8	1,468.8
Adjusted quota		**6,296.7**	**7,628.8**	**4,406.4**	**4,406.4**
Quota Allocation	Directed Category	5,895.2	7,246.1	3,601.9	3,620.7
	Incidental Category	300.0	300.0	300.0	300.0
	Reserve Category	101.5	82.7	504.5	485.7
Utilized Quota	Landings	1,471.8	1,291.5	1,167.5	1,576.4 as of Dec. 31, 2008
	Reserve Transfer to Canada	18.8	18.8	18.8	18.8
Total Underharvest		4,806.1	6,318.5	3,220.1	2,811.2
Dead Discards		114.9	154.9	149.2	TBD
Carryover Available+		4,691.2	1,468.8	1,468.8	TBD
South Atlantic Swordfish Quota (mt dw)		**2005**	**2006**	**2007**	**2008 preliminary**
Baseline Quota		75.2	90.2	75.2	75.2
Quota Carried Over		319.3	394.5	75.2	75.2
Adjusted quota		**394.5**	**484.7**	**150.4**	**150.4**
Landings		0.0	0.0	0.0	0.0 to date
Carryover Available+		394.5	75.2	75.2	75.2

2. Vessel Chartering

The proposed rule (73 FR 68398, November 18, 2008) proposed to modify regulations regarding vessel chartering, consistent with ICCAT recommendation 02–21, potentially to allow Atlantic HMS limited access permit (LAP) holders to charter foreign vessels of ICCAT Contracting Parties, non–Contracting Cooperating Parties, Entities and Fishing Entities (CPC) under a chartering arrangement to fish on the high seas, where catches taken would count against U.S. Atlantic HMS quotas. The proposed chartering regulations would have established a process and criteria for NMFS's evaluation of proposed chartering arrangements and established certain limitations that would be placed on such chartering arrangements. As described below in the response to comments, NMFS has decided not to finalize the proposed changes to the chartering regulations.

3. Response to Comments

Comments on the proposed rule are summarized below, together with NMFS' responses.

Comment 1: NMFS received several comments in support of and in opposition to the adjustment of the 2008 North and South Atlantic swordfish quotas to account for 2007 underharvests.

Response: The 2008 annual specifications are necessary to implement the 2006 ICCAT quota recommendations, as implemented domestically under ATCA, and to achieve domestic management objectives under the Magnuson–Stevens Act. ICCAT recommendation 06–02 limits the amount of North Atlantic swordfish underharvest that can be carried forward by all CPCs to 50 percent of that entity's baseline quota allocation for 2007 and 2008. This action is in accordance with the

framework procedures set forth in the 2006 Consolidated Atlantic HMS FMP, and is supported by the analytical documents prepared for the 2006 Consolidated HMS FMP and for the 2007 North and South Atlantic swordfish quota specifications.

Comment 2: NMFS received several comments opposing the proposed modifications to the vessel chartering regulations. These comments asserted that the proposed modification would only benefit inactive permit holders and would disadvantage the historic and active commercial swordfish fleet and wholesalers because they believe an influx of imported swordfish product would result causing the domestic ex–vessel prices to decrease and a market glut would occur.

Response: The proposed chartering regulations would have allowed all Atlantic HMS LAP holders the ability to enter into a chartering arrangement with an ICCAT CPC. In response to public requests to modify regulations allowing chartering of foreign vessels, NMFS proposed to allow this type of chartering arrangement as a way to help utilize Atlantic HMS quotas and facilitate flexibility within the vessel chartering program, which in turn could enhance quota management within the Atlantic HMS fisheries. The proposed regulations described a process and criteria for NMFS to approve or deny each request for a chartering arrangement considering the ecological, economic, and social impacts of the specific chartering request. Additionally under the proposed process, NMFS would have evaluated whether the proposed chartering arrangement provided adequate benefit to the United States, the Atlantic HMS fishery participants, and the Atlantic HMS quota management. However, upon further review of the potential socioeconomic impacts and due to the concerns expressed by the public, including concerns from constituents who originally requested that HMS modify the chartering regulations, NMFS has decided not to finalize the proposed vessel chartering regulatory modifications.

Comment 3: NMFS received a comment stating that NMFS has not put enough effort into revitalizing the swordfish fishery and that the vessel chartering modifications would serve as a distraction from other necessary revitalization efforts.

Response: NMFS has initiated and implemented a number of regulatory and non–regulatory swordfish fishery revitalization efforts. In June 2007, NMFS published a final rule (72 FR 31688) that amended vessel upgrading restrictions for pelagic longline (PLL) vessels, removed a one–time upgrade restriction for all LAP holders, and among other things, increased incidental and recreational swordfish retention limits. In July 2008, NMFS published a final rule (73 FR 38144) to allow Atlantic tunas longline LAPs that had been expired for more than one year to be renewed by the most recent permit holder of record to allow increased use of swordfish permits by making available more of the required associated permits. NMFS has also been involved with development of the FishWatch website, including swordfish outreach materials for the website, *http://www.nmfs.noaa.gov/fishwatch/*, participation at regional and international seafood shows, development of swordfish fact sheets, meetings with state representatives and industry constituents to discuss marketing outreach strategies, and development of a swordfish revitalization film clip for the Smithsonian Sant Ocean Hall exhibit. In January 2008, NMFS issued exempted fishing permits to conduct research in the East Coast and Charleston Bump PLL closed areas to evaluate existing bycatch reduction measures and collect baseline data under current fishery conditions. NMFS plans more to work with state partners, the swordfish industry, and other constituents to continue to revitalize the swordfish fishery.

Comment 4: NMFS received a comment stating that NMFS did not include enough detail in the proposed rule regarding limitations that need to be imposed on chartering arrangements, such as a sunset provision, quota allocations, and seasonal closures.

Response: The proposed chartering regulations described a process and criteria for NMFS's evaluation of each potential chartering request, as well as a detailed list of specific information required to be included in any chartering arrangement request. The proposed regulations stated that NMFS would have considered each chartering request on a case–by–case basis. If NMFS decided to authorize a chartering arrangement, the written notification from NMFS would have included the vessel chartering requirements and the terms and conditions of the chartering arrangement, including expiration date, data submission requirements, and quota allocations. Thus, the commenter's concerns would have been addressed.

Comment 5: NMFS received a comment stating that the proposed chartering modifications would have violated National Standard Four of the Magnuson–Stevens Act because of the proposal to limit chartering arrangements to commercial fishermen with an Atlantic HMS LAP.

Response: National Standard 4 requires that conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such a manner that no particular individual, cooperation, or other entity acquires an excessive share of such privileges. NMFS proposed to allow all Atlantic HMS LAP holders who are authorized to commercially harvest Atlantic HMS from the U.S. EEZ and on the high seas the ability to charter a foreign vessel of an ICCAT CPC. With regard to chartering, the proposed regulations would have only allowed such activities on the high seas. The Atlantic HMS LAP holders who are currently authorized to commercially harvest HMS on the high seas would have been chartering vessels to, essentially, exercise that harvesting privilege on their behalf. In addition, under the proposed regulations, foreign vessel owners who entered into a chartering arrangement with an Atlantic HMS LAP holder would have been required to follow all U.S. regulations that would have otherwise applied to the Atlantic HMS LAP holder. This approach was aimed at keeping any resulting chartering arrangements within the scope of the existing analyzed effects of utilizing Atlantic HMS quotas on the high seas and does not violate National Standard 4. However, as NMFS is not finalizing the proposed vessel modifications, the concerns have been addressed.

4. Changes from the Proposed Rule

Upon further review of potential socioeconomic impacts and concerns that the proposed regulatory modifications would only benefit inactive permit holders and would disadvantage the historic and active commercial swordfish fleet and because of the opposition from the public regarding the proposed modifications to the vessel chartering regulations, NMFS has decided not to implement the proposed regulatory modifications in the final rule. Therefore, the current vessel chartering regulations at 50 CFR 635.5(a)(5) and 635.32(e) remain unchanged.

5. Classification

The Acting Assistant Administrator has determined that this final rule is consistent with the 2006 Consolidated HMS FMP, the Magnuson–Stevens Act, ATCA, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

Dated: April 1, 2009.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. E9–7859 Filed 4–6–09; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 74, No. 65
Tuesday, April 7, 2009

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

7 CFR Part 610

State Technical Committees

AGENCY: Natural Resources Conservation Service (NRCS), United States Department of Agriculture (USDA).

ACTION: Standard operating procedures for State Technical Committees.

SUMMARY: Section 1261(b)(1) of the Food Security Act of 1985, as amended by the Food, Conservation, and Energy Act of 2008 (2008 Act) requires the Secretary of Agriculture to develop standard operating procedures to standardize the operations of State Technical Committees. NRCS published an interim final rule for State Technical Committees, 7 CFR part 610, in the **Federal Register** on November 25, 2008, that states NRCS will incorporate standard operating procedures for State Technical Committees into its directives system and provide public notice of those procedures. NRCS seeks public comment on this document that includes the current NRCS standard operating procedures as set forth in the NRCS directives system.

DATES: *Comment Date:* Submit comments on or before June 8, 2009.

ADDRESSES: You may send comments using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://regulations.gov* and follow the instructions for sending comments electronically.
- *Mail:* Conservation Technical Assistance Programs Division, U.S. Department of Agriculture, Natural Resources Conservation Service, 1400 Independence Avenue, SW., Room 6015 South Building, Washington, DC 20250–2890.
- *Fax:* (202) 720–2998
- *Hand Delivery:* Room 6015 of the USDA South Office Building, 1400 Independence Avenue, SW., Washington, DC 20250, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please ask the guard at the entrance to the South Building to call (202) 720–8851 in order to be escorted into the building.
- This notice may be accessed via Internet. Users can access the NRCS homepage at *http://www.nrcs.usda.gov/;* select the Farm Bill link from the menu. Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, etc.) should contact the USDA Target Center at: (202) 720–2600 (voice and TDD).

FOR FURTHER INFORMATION CONTACT: Andree DuVarney, Branch Chief, Conservation Technical Assistance, Conservation Planning and Technical Assistance Division, U.S. Department of Agriculture, Natural Resources Conservation Service, PO Box 2890, Room 6015—South Building, Washington, DC 20013–2890; telephone: (202) 720–1510; fax: (202) 720–2998; or e-mail: *STC2008@wdc.usda.gov*, Attn: State Technical Committees.

SUPPLEMENTARY INFORMATION:

Background

NRCS establishes its policies and procedures through its directives system. The NRCS national policy for State Technical Committees, including standard operating procedures, can be accessed through the NRCS directives system at: *http://directives.sc.egov.usda.gov/*. In particular, the standard operating procedures for the State Technical Committees can be found in the Programs Manual (440), Part 501, Subpart B of the NRCS Directives System. NRCS has reprinted the current standard operating procedures in this notice. NRCS reserves the right to update its policy on State Technical Committees, including standard operating procedures, without further **Federal Register** notice.

State Technical Committee Standard Operating Procedures

Part 501

Subpart B—State Technical Committees

501.10 Overview of State Technical Committees

(a) Introduction

The Secretary is required to establish a technical committee in each State to advise on the implementation and technical aspects of natural resource conservation programs and activities under Title XII of the Food Security Act of 1985 (the 1985 Act), as amended.

(b) Statutory Authority

Sections 1261 and 1262 of the 1985 Act, as amended, establish the State Technical Committees and define their legal roles and responsibilities.

(c) Delegation of Responsibility to NRCS

The Secretary delegated responsibility for establishing technical committees to NRCS. Although the State Conservationist chairs the committee, State Technical Committees may be used in an advisory capacity by other USDA agencies.

(d) Exemption From the Federal Advisory Committee Act

Section 1262 of the 1985 Act, as amended, exempts State Technical Committees and Local Working Groups (Part 501.14) from the Federal Advisory Committee Act requirements.

501.11 Roles and Responsibilities of State Technical Committees

(a) Introduction

State Technical Committees provide information, analysis, and recommendations to appropriate officials of USDA who are charged with implementing and establishing priorities and criteria for natural resources conservation activities and programs under Title XII of the 1985 Act, as amended. Although State Technical Committees are advisory in nature and have no implementation or enforcement authority, USDA gives strong consideration to the State Technical Committees' recommendations.

(b) Roles and Responsibilities Related to All Programs

Each State Technical Committee will provide information, analysis, and recommendations for the following programs and initiatives, as needed and where applicable:

- Agricultural Water Enhancement Program
- Chesapeake Bay Watershed Initiative
- Conservation Compliance
- Conservation Innovation Grants
- Conservation Reserve Program

- Conservation Security Program
- Conservation Stewardship Program
- Conservation of Private Grazing Land
- Cooperative Conservation Partnership Initiative
- Environmental Quality Incentives Program
- Farm and Ranch Lands Protection Program
- Grassland Reserve Program
- Grassroots Source Water Protection Program
- Grazing Lands Conservation Initiative
- Great Lakes Basin Program
- Technical Service Providers
- Voluntary Public Access and Habitat Incentive Program
- Wetlands Reserve Program
- Wildlife Habitat Incentive Program

(c) Example Recommendations

Such recommendations may include, but are not limited to:

- Priority natural resource concerns in the State;
- Criteria for priority watersheds for programmatic focus;
- Appropriate mix of conservation programs and practices to address natural resource concerns, including coordination with relevant State and Tribal programs;
- Cost-share rates as applied in payment schedules for conservation practices;
- Techniques for outreach to historically underserved citizens;
- Criteria to be used in ranking program applications;
- Conservation practice standards; and
- Innovative conservation practices and approaches.

(d) Review of Local Working Groups

Annually, the State Technical Committees will review whether Local Working Groups are addressing State priorities and criteria for ranking program applications.

(e) Role of the State Conservationist

The State Conservationist will:

- Chair the committee;
- Ensure representation of all interests, to the extent practicable:
- Give strong consideration to the committee's advice on NRCS programs, initiatives, and activities;
- Call and provide notice of public meetings;
- Follow the Standard Operating Procedures; and
- Provide other USDA agencies with recommendations from the State Technical Committee for programs under their purview.

501.12 State Technical Committee Membership

(a) Introduction

Each State Technical Committee will be composed of agricultural producers, owners/operators of nonindustrial private forest land, and other professionals that represent a variety of interests and disciplines in the soil, water, wetland, plant, and wildlife sciences.

(b) Composition

The State Technical Committee for each State shall include representatives from among the following:

- Natural Resources Conservation Service, USDA;
- Farm Service Agency (FSA), USDA;
- FSA State Committee, USDA;
- Forest Service, USDA;
- National Institute of Food and Agriculture, USDA;
- Each of the Federally recognized American Indian Tribal Governments and Alaskan Native Corporations encompassing 100,000 acres or more in the State;
- Association of soil and water conservation districts;
- State departments and agencies within the State, including the:
  1. Agricultural agency;
  2. Fish and wildlife agency;
  3. Forestry agency;
  4. Soil and water conservation agency; and
  5. Water resources agency.
- Agricultural producers representing the variety of crops and livestock or poultry raised within the State;
- Owners of nonindustrial private forest land;
- Nonprofit organizations, within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986, with demonstrable conservation expertise and experience working with agricultural producers in the State; and
- Agribusiness.

(c) Other Members

The State Conservationist will invite other Federal agencies and persons knowledgeable about economic and environmental impacts of conservation techniques and programs to participate, as needed.

(d) Ensuring Diversity

To ensure that recommendations of the State Technical Committee take into account the needs of diverse groups served by USDA, membership will include, to the extent practicable, individuals with demonstrated ability to represent the conservation and related technical concerns of particular historically underserved groups and individuals including, but not limited to, the following:

- Minorities;
- Women;
- Persons with disabilities; and
- Socially and economically disadvantaged groups.

501.13 Specialized Subcommittees of State Technical Committees

(a) Introduction

In some situations, specialized subcommittees composed of State Technical Committee members may be needed to analyze and refine specific issues. The State Conservationist may assemble certain committee members, including members of Local Working Groups and other experts, to discuss, examine, and focus on a particular technical or programmatic topic, or combination of such.

(b) Public Involvement

Specialized subcommittees are open to the public and may seek public participation, but they are not required to do so. Recommendations of specialized subcommittees will be presented in general sessions of State Technical Committees, where the public is notified and invited to attend.

(c) Examples of Specialized Subcommittees

The following are examples of specialized subcommittees:

Examples of specialized subcommittees	Program or topic	Task
Environmental Quality Incentives Program Ranking Criteria Subcommittee.	Environmental Quality Incentives Program	Provide input to develop State ranking criteria and make recommendations to the State Technical Committee.
State Forestry Subcommittee	All programs	Provide recommendations to the State Technical Committee on forestry conservation practices and payment rates to be supported in conservation programs.

Examples of specialized subcommittees	Program or topic	Task
Conservation Easement Geographic Rate Subcommittee.	Wetlands Reserve Program and Grassland Reserve Program.	Develop recommendations for the Geographic Area Rate Cap and present it to the State Technical Committee.
Payment Schedule Subcommittee	All cost-sharing programs	Provide recommendations for practices and payment rates for conservation programs that support program objectives and State and local priorities.
State Wildlife Subcommittee	Wildlife Habitat Incentive Program (WHIP)	Provide recommendations (to the State Technical Committee) for the State WHIP plan that incorporates priorities of the State comprehensive wildlife action plan and similar plans and initiatives.
Priority Watershed Subcommittee	Chesapeake Bay Watershed Initiative	Recommend priority watersheds for focusing funding for effective use of available resources.

501.14 Standard Operating Procedures for State Technical Committees

(a) Organization and Function

The State Conservationist will serve as the Chairperson of the State Technical Committee.

State Technical Committees will be used to provide information, analysis, and recommendations to NRCS and other USDA agencies responsible for natural resource conservation activities and programs under Title XII of the 1985 Act, as amended.

(b) Membership

Individuals or groups wanting to become a member on a State Technical Committee within a specific State may submit to the State Conservationist a request that explains their interest and outlines their credentials for becoming a member of the State Technical Committee. Decisions of the State Conservationist concerning membership on the committee are final and not appealable.

The State Conservationist will respond to requests for State Technical Committee membership in writing within a reasonable period of time, not to exceed 60 days.

State Technical Committee membership will be posted on the NRCS State Web site.

(c) Meeting Scheduling

The State Technical Committee should meet at least twice a year at a time and place designated by the State Conservationist. Other meetings may be held at the discretion of the State Conservationist. Meetings will be called by the State Conservationist whenever it is the opinion of the State Conservationist that there is business that should be brought before the committee for action. Any USDA agency, however, can make a request of the State Conservationist for a meeting.

(d) Public Notification

State Technical Committee and subcommittee meetings are open to the public.

The State Conservationist will provide public notice of and allow public attendance at all State Technical Committee meetings. The State Conservationist will publish a meeting notice at least 14 calendar days prior to the meeting. Notification may exceed the 14 calendar-day minimum where State open meeting laws exist and require a longer notification period. The minimum 14 calendar-day notice requirement may be waived in the case of exceptional conditions, as determined by the State Conservationist. The State Conservationist will publish this meeting notice in one or more widely available newspaper(s), including recommended Tribal publications, to achieve statewide and Tribal notification. The meeting notice will also be posted to the NRCS State Web site. The meeting notice will include meeting time, location, agenda items, and point of contact.

(e) Meeting Content

The State Conservationist will prepare a meeting agenda and provide it to the committee members at least 14 calendar days prior to a scheduled meeting. Additional background materials may be provided before the meeting at the discretion of the State Conservationist. The minimum 14 calendar-day requirement may be waived in the case of exceptional conditions, as determined by the State Conservationist.

Additional agenda items will be considered if submitted in writing to the State Conservationist at least 5 working days prior to the meeting. The State Conservationist may amend the agenda prior to the meeting without notice to the State Technical Committee, or at the meeting based on suggestions from participating members. The agenda will be posted to the NRCS State Web site.

(f) Public Participation

Individuals attending State Technical Committee meetings will be given the opportunity to address the committee and present their opinions and recommendations. While presenters are encouraged to provide written copies of their comments, they are not required to do so.

State Conservationists are encouraged to request written comments on agenda items from all members of the State Technical Committee whether they are in attendance at the meeting or not. Subsequent to the meeting, if the State Conservationist determines that additional comments and recommendations are needed on specific topics, the State Conservationist will mail a request for written comments to all members of the State Technical Committee within 7 calendar days of the meeting. The letter will fully explain the nature of the request for information and provide at least 14 calendar days for a response. Comments received will be summarized and presented at the next State Technical Committee meeting and will be directly posted on the NRCS State Web site.

If time allows, opportunity to discuss non-agenda items will be provided at the end of the meeting.

(g) Conducting Business

The meetings will be conducted as an open discussion among members. Discussion will focus on the programs and activities identified in Section 501.11(b). All recommendations will be considered.

The following guidelines will govern meeting discussions:

(1) The State Conservationist or his or her designee will lead the discussion.

(2) Only one person may speak at a time. Every participant should have an opportunity to speak. The State

Conservationist or his or her designee is responsible for recognizing speakers.

(3) State Technical Committees are advisory in nature and all recommendations are considered. Members may be polled, but voting on issues is not appropriate.

(4) The State Conservationist, in consultation with those members present, may establish time limits for discussion on individual agenda items.

(5) The State Conservationist will defer to the next meeting those agenda items not covered because of time limits.

(h) Record of Meetings

Summaries for all State Technical Committee meetings will be available within 30 calendar days of the committee meeting and distributed to committee members. The summaries will be filed at the appropriate NRCS State office and posted to the NRCS State Web site.

(i) Response to State Technical Committee Recommendations

The State Conservationist will inform the State Technical Committee as to the decisions made in response to all State Technical Committee recommendations within 90 days. This notification will be made in writing to all State Technical Committee members and posted to the NRCS State Web site.

501.15 Local Working Groups

(a) Introduction

Local Working Groups are composed of agricultural producers, owners/operators of nonindustrial private forest land, professionals representing agricultural and natural resource interests, and individuals representing a variety of disciplines in the soil, water, wetland, plant, forestry, and wildlife sciences who are familiar with agricultural and natural resource issues in the local community.

(b) Role of Local Working Groups

Local Working Groups provide recommendations to the District Conservationist (or Designated Conservationist) and the State Conservationist on local natural resource priorities and criteria for conservation activities and programs listed in Section 501.11(b).

(c) Membership

Local Working Group membership should be diverse and focus on agricultural interests and natural resource issues existing in the local community. Membership should include agricultural producers representing the variety of crops and livestock and/or poultry raised within the local area; owners of nonindustrial private forest land, as appropriate; representatives of agricultural and environmental organizations; and representatives of governmental agencies carrying out agricultural and natural resource conservation programs and activities.

To ensure that recommendations of the Local Working Group take into account the needs of diverse groups served by USDA, membership shall include, to the extent practicable, individuals with demonstrated ability to represent the conservation and related technical concerns of particular historically underserved groups and individuals including, but not limited to, the following:

- Minorities;
- Women;
- Persons with disabilities; and
- Socially and economically disadvantaged groups.

Individuals or groups wanting to become a member of a Local Working Group may submit to the Local Working Group Chairperson and the NRCS District Conservationist (or Designated Conservationist), a request that explains their interest and outlines their credentials for becoming a member of the Local Working Group. The District Conservationist (or Designated Conservationist) will assist the soil and water conservation district in making decisions concerning membership of the group.

(d) Local Working Groups Relationship to State Technical Committees

Local Working Groups may provide input and recommendations to the State Technical Committee.

501.16 Standard Operating Procedures for Local Working Groups

(a) Organization and Function

Local Working Groups are to provide recommendations on local natural resource priorities and criteria for USDA conservation activities and programs. Local Working Groups are normally chaired by the appropriate soil and water conservation district (SWCD). In the event the SWCD is not able, or does not choose to chair the Local Working Group, NRCS' District Conservationist (or Designated Conservationist) will be responsible for those duties.

(b) Meeting Scheduling

The Local Working Group should meet at least once each year at a time and place designated by the Chairperson unless otherwise agreed to by the members of the Local Working Group. Other meetings may be held at the discretion of the Chairperson. Meetings will be called by the Chairperson whenever it is determined that there is business that should be brought before the Local Working Group.

(c) Public Notification

Local Working Group meetings are open to the public. Public notice of Local Working Group meetings should be provided at least 14 calendar days prior to the meeting. Notification will need to exceed the 14 calendar-day minimum where State open meeting laws exist and require a longer notification period. The minimum 14 calendar-day notice requirement may be waived in the case of exceptional conditions, as determined by the Chairperson or NRCS District Conservationist (or Designated Conservationist). The public notice of Local Working Group meetings will include the time, place, and agenda items for the meeting.

(d) Meeting Information

Agendas and information will be provided to the Local Working Group members at least 14 calendar days prior to the scheduled meeting. The District Conservationist (or Designated Conservationist) will assist the Local Working Group Chairperson, as requested, in preparing meeting agendas and necessary background information for meetings. The minimum 14 calendar-day notice requirement may be waived in the case of exceptional conditions, as determined by the Chairperson or NRCS District Conservationist (or Designated Conservationist).

(e) Public Participation

Individuals attending the Local Working Group meetings will be given the opportunity to address the Local Working Group. Opportunity to address non-agenda items will be provided if time allows at the end of the meeting. Presenters are encouraged to provide written records of their comments to the Chairperson at the time of the presentation but are not required to do so. Written comments may be accepted if provided to the Chairperson no later than 14 calendar days after a meeting.

(f) Conducting Business

The meetings will be conducted as an open discussion among members. Discussion will focus on identifying local natural resource concerns that can be treated using programs and activities identified in Section 501.11(b). All recommendations will be considered.

The following guidelines will govern meeting discussions:

(1) The Chairperson will lead the discussion.

(2) Only one person may speak at a time. Every participant should have an opportunity to speak. The Chairperson or his or her designee is responsible for recognizing speakers.

(3) The Chairperson, in consultation with those members present, may establish time limits for discussion on individual agenda items.

(4) The Chairperson will defer to the next meeting those agenda items not covered because of time limits.

(g) Record of Meetings

Summaries for all Local Working Group meetings will be available within 30 calendar days of the meeting, and will be filed at the appropriate local NRCS office.

(h) Input to State Technical Committee

Local Working Group recommendations are to be submitted to State Technical Committee Chairperson and/or the District Conservationist (or Designated Conservationist), as appropriate, within 14 calendar days after a meeting.

Signed on 1st day of April 2009, in Washington, DC.

Dave White,

Chief, Natural Resources Conservation Service.

[FR Doc. E9–7771 Filed 4–6–09; 8:45 am]

BILLING CODE

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1209

[Docket No.: AMS–FV–08–0047; FV–08–702]

RIN 0581–AC82

Amendments to Mushroom Promotion, Research, and Consumer Information Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule with request for comments.

SUMMARY: This rule proposes to amend provisions of the Mushroom Promotion, Research, and Consumer Information Order (Order) to reapportion membership of the Mushroom Council (Council) to reflect shifts in United States mushroom production as well as to add language to the powers and duties section of the Order allowing the Council the power to develop and propose good agricultural and handling practices and related activities for mushrooms. This rule proposes changes to the Order based on amendments to the Food Conservation and Energy Act.

DATES: Comments must be received by May 7, 2009.

ADDRESSES: Interested persons are invited to submit written comments on the Internet at *http://www.regulations.gov* or to the Research and Promotion Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0244, Room 0632–S, Washington, DC 20250–0244; fax: (202) 205–2800. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours or can be viewed at *http://www.regulations.gov*.

All comments received will be posted without change, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Kimberly Coy, Marketing Specialist, Research and Promotion Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Room 0632, Stop 0244, Washington, DC 20250–0244; telephone: (202) 720–9915 or (888) 720–9917 (toll free); or facsimile: (202) 205–2800; or e-mail: *Kimberly.Coy@usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under the Mushroom Promotion, Research, and Consumer Information Order (Order) 7 CFR part 1209. The Order is authorized under the Mushroom Promotion, Research, and Consumer Information Act of 1990 (Act) 7 U.S.C. 6101–6112.

Executive Order 12866

This rule has been determined not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. The rule is not intended to have a retroactive effect and will not effect or preempt any State, Federal, or local laws, regulations, or policies authorizing promotion or research relating to an agricultural commodity, unless they represent an irreconcilable conflict with this rule.

Under section 1927 of the Act, a person subject to an Order may file a written petition with the Department stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order, is not in accordance with the law, and requesting a modification of the Order or an exemption from the Order. Any petition filed challenging the Order, any provision of the Order, or any obligation imposed in connection with the Order, shall be filed within two years after the effective date of the Order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, the Department will issue a ruling on the petition. The Act provides that the district court of the United States in any district in which the petitioner resides or carries on business shall have the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of the Department's final ruling.

Initial Regulatory Flexibility Analysis and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, the Agricultural Marketing Service (AMS) has examined the economic impact of this rule on small entities that would be affected by this rule. The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

The Small Business Administration defines, in 13 CFR part 121, small agricultural producers as those having annual receipts of no more than $750,000 and small agricultural service firms (importers) as having receipts of no more than $7,000,000. There are approximately 107 producers and 18 importers subject to the Order, and thus, eligible to serve on the Council. The majority of these producers and importers would not be considered small entities as defined by the Small Business Administration. Producers and importers of 500,000 pounds or less on average of mushrooms for the fresh market are exempt from the Order.

The current Order provides for the establishment of a Council consisting of at least four members and not more than nine members. For the purpose of nominating and appointing producers to the Council, the United States is divided into four geographic regions (Regions 1, 2, 3, and 4) with Council member representation allocated for each region based on the geographic distribution of mushroom production. Currently, for importers (referred to as Region 5), one Council member seat is allocated when imports, on average, exceed 35,000,000 pounds of mushrooms annually. The

Order also specifies that the Council will review—at least every five years and not more than every three years—the geographic distribution of United States mushroom production volume and import volume, and recommend changes accordingly.

Section 10104 of the 2008 Farm Bill amended sections 1925(b)(2) and (c) of the Mushroom Promotion, Research, and Consumer Information Act of 1990, 7 U.S.C. 6101–6112. Specifically, section 10104 reapportioned the Act's requirements for geographic regions that represent the geographic distribution of mushroom production in order to appoint producer members of the Council from four to three, and adjusted the pounds required by each region (including importers) for Council membership. This proposal would change the current five geographic regions to four as follows: Region 1—all other States including the District of Columbia and the Commonwealth of Puerto Rico except for Pennsylvania and California; Region 2—the State of Pennsylvania; Region 3—the State of California; and Region 4—importers. Finally, section 10104 added language to the powers and duties section of the Act that authorizes the Council to develop and propose good agricultural and handling practices, and related activities for mushrooms.

In 1990, there were 466 mushroom farms in 26 states, as reported by the National Agricultural Statistics Service (NASS). Mushrooms farms, like many other agricultural sectors, have experienced significant consolidation. In 2007, NASS reported 279 mushroom farms in 18 states. Pennsylvania, the largest mushroom producing state, produced 332.5 million pounds in 1990. Last year, NASS reported that Pennsylvania produced 496.6 million pounds, accounting for 61 percent of the total volume of sales in the United States. According to the Council, changing economic conditions over the past 18 years, coupled with innovations in production methods, advancements in cold chain management and long-range transportation options have all contributed to mushroom farming operations becoming larger, but fewer in number. Currently, there are 107 entities in 11 states which are subject to the Act, and therefore eligible for nomination to the Council. Several of these entities are owned by companies which have multiple operations in different states. The Act states that no more than one member may be appointed to the Council from nominations submitted by any one producer or importer.

According to NASS, at present 73 percent of all domestic producers subject to the Act are located in the State of Pennsylvania. The value of sales for mushrooms shipped from Pennsylvania grew 16 percent from July 1, 2004 to June 30, 2008. Of the remaining 29 producers subject to the Act, not located in Pennsylvania, 59 percent reside in the State of California, with the remaining 12 producers scattered among 9 States. The value of sales for mushrooms shipped from California increased 8 percent from July 1, 2004 to June 30, 2008, while the value of sales for mushrooms shipped from the rest of the United States (excluding Pennsylvania) declined 3 percent. Pennsylvania and California alone account for 77 percent of all domestic producers subject to the Act and are growing in terms of fresh pounds produced and shipped, and thus are likely to remain viable regions for the foreseeable future. Pennsylvania's designation as one of the three regions in the United States ensures that it receives representation relative to its production. With nearly 60 percent of the remaining producers subject to the Act and growing, California would also benefit from a regional designation. In reviewing the geographical regions, the Department also reviewed the importer seats to ensure that importers are adequately represented based on annual production numbers. Importers have a four year average annual production from January 1, 2004, through December 31, 2007, of 68 million pounds. Therefore, according to the changes made to the Act and the proposed changes to the Order, importer representation on the Council will remain the same.

Section 1925(b)(2) of the Act, Appointments, states that in making appointments of members to the Council, the Secretary shall take into account, to the extent practicable, the geographical distribution of mushroom production throughout the United States, and the comparative volume of mushrooms imported into the United States.

According to the Council, the reduction in the number of regions from four to three for domestic production and the increase in pounds required for seats in each region will more accurately reflect the current status of mushroom production in the United States.

This rule proposes to change the five current geographic regions as follows: Region 1—all other States including the District of Columbia and the Commonwealth of Puerto Rico except for Pennsylvania and California; Region 2—the State of Pennsylvania; Region 3—the State of California; and Region 4—importers.

In accordance with amendments to the Act, this proposed rule would also increase the threshold for regional representation on the Council from a production average of at least 35 million pounds to at least 50 million pounds annually. Each region that produces on average, at least 50 million pounds of mushrooms annually shall be entitled to one representative on the Council.

This proposed rule would also change the way additional members are appointed to the Council. Pursuant to the amendments to the Acts made by the 2008 Farm Bill, and subject to the 9-member limit of members on the Council, the Secretary shall appoint additional members to the council from a region that attains additional pounds of production as follows:

i. If the annual production of a region is greater than 110,000,000 pounds, but less than or equal to 180,000,000 pounds, the region shall be represented by 1 additional member.

ii. If the annual production of a region is greater than 180,000,000 pounds, but less than or equal to 260,000,000 pounds, the region shall be represented by 2 additional members.

iii. If the annual production of a region is greater than 260,000,000 pounds, the region shall be represented by 3 additional members.

Should, in the aggregate, regions be entitled to levels of representation that would exceed the nine-member limit on the Council under the Act, the seat or seats assigned would be assigned to that region or those regions with greater on-average production or import volume than the other regions otherwise eligible at that increment level.

With regard to alternatives, this proposed rule reflects the provisions of the Act as amended.

Section 1925(c) of the Act was also amended by the 2008 Farm Bill to include language that authorizes the Council to develop and propose to the Secretary programs for good agricultural and good handling practices and related activities for mushrooms. Therefore, this proposed rule recommends an amendment to Section 1209.38 of the Order to include the following language: ''to develop and propose to the Secretary programs for good agricultural and good handling practices and related activities for mushrooms''.

The overall impact of the amendments will be favorable for producers and importers because the producers and importers would have more equitable representation on the Council based on United States

mushroom production volume and import volume.

Section 1924(b)(3) of the Act provides for referenda to be conducted to ascertain approval of changes to the Order prior to going into effect. Such amendments to the Order become effective, if the Secretary determines that the Order has been approved by a majority of the producers and importers of mushrooms voting in the referendum, which majority, on average, annually produces and imports into the United States more than 50 percent of mushrooms annually produced and imported by all those voting in the referendum. Accordingly, before these changes are made to the Order, a referendum will be conducted among eligible producers and importers of mushrooms.

In accordance with the Office of Management and Budget (OMB) regulation, 5 CFR part 1320 which implements the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, there are no new information collection requirements contained in this rule because the number of producer members will remain unchanged at nine producer members. The information collection requirements have been previously approved by the Office of Management and Budget (OMB) under OMB control number 0581–0093.

There are no Federal rules that duplicate, overlap, or conflict with this rule.

We have performed this Initial Regulatory Flexibility Analysis regarding the impact of this proposed amendment to the Order on small entities, and we invite comments concerning the effects of this amendment on small businesses.

Background

The Order is authorized under the Mushroom Promotion, Research, and Consumer Information Act of 1990, 7 U.S.C. 6101–6112, and is administered by the Council. Under the Order, the Council administers a nationally coordinated program of research, development, and information designed to strengthen the fresh mushroom's position in the market place and to establish, maintain, and expand markets for fresh mushrooms. The program is financed by an assessment of $0.005 cents per pound on any person who produces or imports over 500,000 pounds of mushrooms for the fresh market annually. Under the Order, handlers collect and remit producer assessments to the Council, and assessments paid by importers are collected and remitted by the United States Customs and Border Protection.

The Order provides for the establishment of a Council consisting of at least four members and not more than nine members. For the purpose of nominating and appointing producers to the Council, the United States is divided into four geographic regions (Regions 1, 2, 3, and 4) with Council member representation allocated for each region based on the geographic distribution of mushroom production. For importers (referred to as Region 5), one Council member seat is allocated when imports, on average, exceeds 35 million pounds of mushrooms annually.

Section 1209.30(d) of the Order provides that at least every five years, and not more than every three years, the Council shall review changes in the geographic distribution of mushroom production volume throughout the United States and import volume, using the average annual mushroom production and imports over the preceding four years. Based on the review, the Council is required to recommend reapportionment of the regions or modification of the number of members from such regions, or both, to reflect shifts in the geographic distribution of mushroom production volume and importer representation.

Under section 1209.230 of the regulations, current regions and Council member representation for each region are as follows: Region 1: Colorado, Oklahoma, Wyoming, Washington, Oregon, Florida, Illinois, Tennessee, Texas and Utah—3 producer members; Region 2: the State of Pennsylvania—3 producer members; Region 3: the State of California—2 producer members; Region 4: all other States including the District of Columbia and the Commonwealth of Puerto Rico—0 producer members; and Region 5: importers—1 member. Based on data from the Council, from the period beginning January 1, 2004, through December 31, 2007, there is approximately 746 million pounds of mushrooms assessed on average annually under the Order. Currently, the Order's Regions 1, 2, 3, 4, and 5 represent 172 million pounds, 363 million pounds, 110 million pounds, 15 million pounds, and 68 million pounds, respectively, based on a four year average from January 1, 2004, through December 31, 2007. Since Region 4 represents 15 million pounds of mushroom production, the region no longer qualifies for member representation because production within the region falls below the 35 million pounds Order requirement.

Based on the amendments to the Act made by section 10104 of the Farm Bill, and a review of United States mushroom production volume and import volume, this proposal would change the current five geographic regions to four as follows: Region 1—all other States including the District of Columbia and the Commonwealth of Puerto Rico except for Pennsylvania and California; Region 2—the State of Pennsylvania; Region 3—the State of California; and Region 4—importers.

The current Order also provides that each producer region that produces, on average, at least 35 million pounds of mushrooms annually is entitled to one member. The current Order also states that importers shall be represented by a single, separate region, and are also entitled to one representative, if on average, at least 35 million pounds of mushrooms are imported annually. Further, the current Order states that each region shall be entitled to representation by an additional Council member for each 50 million pounds of annual production or imports, on average, in excess of the initial 35 million pounds required to qualify the region for representation, until the nine seats on the Council are filled. Section 1902.12 of the Order provides that ''on average'' means a rolling average of production or imports during the last two fiscal years, or such other period as may be determined by the Secretary. For purposes of this rule, and as provided under the Order, ''on average'' reflects a rolling average of production or imports during the last four fiscal years.

Section 1209.30(e)(4)(iii) of the current Order, provides that should regions be entitled to levels of representation that would exceed the nine-member limit on the Council under the Act, the regions shall be entitled to representation on the Council as follows: Each region with 50 million pounds of annual production or imports, on average, in excess of the initial 35 million pounds required to qualify the region for representation shall be assigned one additional representative on the Council, except that if under such assignments all five regions, counting importers as a region, if applicable, would be entitled to additional representatives, that region with the smallest on-average volume, in terms of production or imports, will not be assigned an additional representative. According to section 1209.30(f) of the current Order, in determining the volume of mushrooms produced in the United States or imported into the United States, the Council and the Secretary shall: (1) Only consider mushrooms produced or imported by producers and importers, respectively, as those terms are defined in sections 1209.8 and 1208.15; and (2)

used the information received by the Council under section 1209.60, and data published by the Department.

In addition, the current Order provides that if after members are assigned to the regions, less than the entire nine seats on the Council have been assigned to regions, the remaining seats on the Council shall be assigned to each region for each 50 million pound increment of annual production or import volume, on average, in excess of 85 million pounds until all the seats are filled. If for any such 50 million pound increment, more regions are eligible for seats than there are seats available, the seat or seats assigned for such increment shall be assigned to that region or those regions with greater on-average production or import volume than the other regions otherwise eligible at that increment level.

Pursuant to the amendments made to the Act made by the 2008 Farm Bill, this proposed rule would increase the threshold for regional representation on the Council from a production average of at least 35 million pounds to at least 50 million pounds annually. Each region that produces on average, at least 50 million pounds of mushrooms annually shall be entitled to one representative on the Council.

In addition, this proposed rule would also change language in the Order regarding how additional members are added to the Council. Additional members from each region that attains additional pounds of production would now be appointed to the Council as follows:

i. If the annual production of a region is greater than 110,000,000 pounds, but less than or equal to 180,000,000 pounds, the region shall be represented by 1 additional member.

ii. If the annual production of a region is greater than 180,000,000 pounds, but less than or equal to 260,000,000 pounds, the region shall be represented by 2 additional members.

iii. If the annual production of a region is greater than 260,000,000 pounds, the region shall be represented by 3 additional members.

This proposed amendment to the Order would change the number of regions and Council member representatives as follows: Region 1—all other States including the District of Columbia and the Commonwealth of Puerto Rico except for Pennsylvania and California; Region 2—the State of Pennsylvania; Region 3—the State of California; and Region 4—importers.

Should, in the aggregate, regions be entitled to levels of representation that would exceed the nine-member limit on the Council under the Act, the seat or seats assigned shall be assigned to that region or those regions with greater on-average production or import volume than the other regions otherwise eligible at that increment level.

Section 1925(c) of the Act was also amended by the 2008 Farm Bill to insert language allowing the Council to develop and propose to the Secretary programs for good agricultural and good handling practices and related activities for mushrooms. Therefore, this proposed rule recommends an amendment to section 1209.38 of the Order to include the following line: ''to develop and propose to the Secretary programs for good agricultural and good handling practices and related activities for mushrooms''.

For changes to the Order to become effective, the proposed amendments to the Order must be approved by a majority of the producers and importers of mushrooms voting in a referendum, which majority, on average, annually produces and imports into the United States more than 50 percent of mushrooms annually produced and imported by all those voting in the referendum. Accordingly, a referendum will be conducted among eligible producers and importers of mushrooms. Specific dates for the referendum will be announced at a later date.

Finally, any final rule published as a result of this action would terminate section 1209.230 of the regulations concerning reallocation of Council members.

A thirty-day comment period is provided to allow interested persons to respond to this proposal. A thirty-day comment period is deemed appropriate in order to conform the provisions of the Order to the 2008 Farm Bill amendments as soon as possible. All written comments received in response to this rule by the date specified would be considered prior to finalizing this action.

List of Subjects in 7 CFR Part 1209

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Mushroom promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 1209 of the Code of Federal Regulations be amended as follows:

PART 1209—MUSHROOM PROMOTION, RESEARCH, AND CONSUMER INFORMATION ORDER

1. The authority citation for 7 CFR part 1209 continues to read as follows:

Authority: 7 U.S.C. 6101–6112; 7 U.S.C. 7401.

2. In § 1209.30 paragraphs (a) through (e) are revised to read as follows:

§ 1209.30 Establishment and membership.

(a) There is hereby established a Mushroom Council of not less than four or more than nine members. The Council shall be composed of producers appointed by the Secretary under § 1209.33, except that, as provided in paragraph (c) of this section, importers shall be appointed by the Secretary to the Council under § 1209.33 once imports, on average, reach at least 50,000,000 pounds of mushrooms annually.

(b) For purposes of nominating and appointing producers to the Council, the United States shall be divided into three geographic regions and the number of Council members from each region shall be as follows:

(1) *Region 1:* All other States including the District of Columbia and the Commonwealth of Puerto Rico except for Pennsylvania and California—2 Members.

(2) *Region 2:* The State of Pennsylvania—4 Members.

(3) *Region 3:* The State of California—2 Members.

(c) Importers shall be represented by a single, separate region, referred to as Region 4, consisting of the United States when imports, on average, equal or exceed 50,000,000 pounds of mushrooms annually.

(d) At least every five years, and not more than every three years, the Council shall review changes in the geographic distribution of mushroom production volume throughout the United States and import volume, using the average annual mushroom production and imports over the preceding four years, and, based on such review, shall recommend to the Secretary reapportionment of the regions established in paragraph (b) of this section, or modification of the number of members from such regions, as determined under the rules established in paragraph (e) of this section, or both, as necessary to best reflect the geographic distribution of mushroom production volume in the United States and representation of imports, if applicable.

(e) Subject to the nine-member maximum limitation, the following procedure will be used to determine the number of members for each region to serve on the Council under paragraph (d) of this section:

(1) Each region that produces, on average, at least 50,000,000 pounds of

mushrooms annually shall be entitled to one representative on the Council.

(2) As provided in paragraph (c) of this section, importers shall be represented by a single, separate region, which shall be entitled to one representative, if such region imports, on average, at least 50,000,000 pounds of mushrooms annually.

(3) If the annual production of a region is greater than 110,000,000 pounds, but less than or equal to 180,000,000 pounds, the region shall be represented by 1 additional member.

(4) If the annual production of a region is greater than 180,000,000 pounds, but less than or equal to 260,000,000 pounds, the region shall be represented by 2 additional members.

(5) If the annual production of a region is greater than 260,000,000 pounds, the region shall be represented by 3 additional members.

(6) Should, in the aggregate, regions be entitled to levels of representation under paragraphs (e)(1), (2), (3), (4) and (5) of this section that would exceed the nine-member limit on the Council under the Act, the seat or seats assigned shall be assigned to that region or those regions with greater on-average production or import volume than the other regions otherwise eligible at that increment level.

(f) * * *

(g) * * *

3. In § 1209.38, redesignate paragraphs (l) and (m) as paragraphs (m) and (n), respectively, and add a new paragraph (l) to read as follows:

§ 1209.38 Powers.

* * * * *

(l) To develop and propose to the Secretary programs for good agricultural and good handling practices and related activities for mushrooms.

* * * * *

§ 1209.230 [Removed]

4. Section 1209.230 is removed.

Dated: March 30, 2009.

Robert C. Keeney,

Acting Associate Administrator.

[FR Doc. E9–7476 Filed 4–6–09; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0314; Directorate Identifier 2008–NM–196–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–200, –300, –300F, and –400ER Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Boeing Model 767–200, –300, –300F, and –400ER series airplanes. This proposed AD would require an inspection to determine if certain motor operated valve actuators for the fuel tanks are installed, and related investigative and corrective actions if necessary. This proposed AD results from fuel system reviews conducted by the manufacturer. We are proposing this AD to prevent an ignition source inside the fuel tanks, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by May 22, 2009.

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

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

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; e-mail *me.boecom@boeing.com*; Internet *https://www.myboeingfleet.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Douglas Bryant, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6505; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2009–0314; Directorate Identifier 2008–NM–196–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and

new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (*i.e.*, type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: Single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this AD are necessary to reduce the potential for ignition sources inside fuel tanks caused by latent failures, alterations, repairs, or maintenance actions, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Boeing has found that, under specific conditions, it is possible for electrical current to flow through certain motor operated valve (MOV) actuators into the fuel tank. Boeing has developed a new valve actuator to replace those actuators. The new MOV actuator includes an internal electrical isolator to give the MOV actuator protection against electrical energy from lightning, hot shorts, and internal shorts. The new MOV actuator will prevent the flow of an electrical current into the fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

Related Rulemaking

On May 8, 2008, we issued AD 2008–11–01, amendment 39–15523 (73 FR 29414, May 21, 2008), for certain Boeing Model 767–200, –300, –300F, and –400ER series airplanes. That AD requires revising the FAA-approved maintenance program to incorporate new airworthiness limitations (AWLs) for fuel tank systems to satisfy SFAR 88 requirements. That AD also requires the initial inspection of certain repetitive AWL inspections to phase in those inspections, and repair if necessary. That AD resulted from a design review of the fuel tank systems. We issued that AD to prevent the potential for ignition sources inside fuel tanks caused by latent failures, alterations, repairs, or maintenance actions, which, in combination with flammable fuel vapors, could result in fuel tank explosion and consequent loss of the airplane.

The version of the Maintenance Planning Data (MPD) Document (described below) that is required by AD 2008–11–01 and referenced in this proposed AD has not been changed and includes the AWLs for this proposed AD.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 767–28A0090, dated July 3, 2008. The service bulletin describes procedures for inspecting to determine the part number (P/N) of MOV actuators for the main and center fuel tanks. The service bulletin specifies that no more work is necessary if the part number is acceptable.

If the part number is not acceptable, the service bulletin specifies related investigative and corrective actions as follows:

- Replacing the MOV actuator with a new actuator having P/N MA30A1001.
- Doing an electrical resistance check; and, if the resistance is not acceptable, reworking the faying bond and airplane parts (including the index plate and adapter plate, as applicable).
- For any new part installed at the dual forward/aft engine fuel crossfeed location, inspecting for the ''SWEENEY ENGR CORP'' marking on the adaptor plate, and installing a shim kit as applicable.
- For airplanes that have a deflector kit installed at the left and right engine fuel shutoff MOV actuator location, installing a new wire support assembly on the deflector to prevent part interference.

Boeing Alert Service Bulletin 767–28A0090, dated July 3, 2008, also cites Section 9 of the Boeing 767 MPD Document, D622T001–9.

FAA's Determination and Requirements of This Proposed AD

We are proposing this AD because we evaluated all relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the(se) same type design(s). This proposed AD would require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between the Proposed AD and the Service Bulletin.''

Differences Between the Proposed AD and the Service Bulletin

Although Boeing Alert Service Bulletin 767–28A0090, dated July 3, 2008 (''the service bulletin''), refers to Section 9 of the Boeing 767 Maintenance Planning Data (MPD) Document, D622T001–9, this proposed AD would not require revising the FAA-approved maintenance program to incorporate the new airworthiness limitations (AWLs) in Revision April 2008 of that document. We require that action in AD 2008–11–01.

The service bulletin also specifies replacing any MOV actuator having part number MA20A1001–1 with a new MOV actuator having P/N MA30A1001; however, this proposed AD would include other acceptable replacement part numbers. Other approved part numbers that are interchangeable with P/N MA30A1001 are as follows:

- MA20A2027 (S343T003–56)
- MA11A1265–1 (S343T003–41)
- AV–31–1 (S343T003–111)

Costs of Compliance

We estimate that this proposed AD would affect 397 airplanes of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with this proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $80 per product. Based on these figures, we estimate the cost of this proposed AD to the U.S. operators to be $63,520, or $160 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with

promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979), and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

You can find our regulatory evaluation and the estimated costs of compliance in the AD Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

Boeing: Docket No. FAA–2009–0314; Directorate Identifier 2008–NM–196–AD.

Comments Due Date

(a) We must receive comments by May 22, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 767–200, –300, –300F, and –400ER series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 767–28A0090, dated July 3, 2008.

Unsafe Condition

(d) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent an ignition source inside the fuel tanks, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

Compliance

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

Subject

(f) Air Transport Association (ATA) of America Code 28: Fuel.

Inspection and Related Investigative/ Corrective Actions

(g) Within 60 months after the effective date of this AD, do the actions in paragraphs (g)(1) and (g)(2) of this AD.

(1) Inspect the motor operated valves (MOVs) in the main and center fuel tanks to determine if any MOV having part number (P/N) MA20A1001–1 is installed, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 767–28A0090, dated July 3, 2008. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number can be conclusively determined from that review.

(2) Do all applicable related investigative and corrective actions specified in and in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 767–28A0090, dated July 3, 2008, except as provided by paragraph (h) of this AD.

Alternative Part Numbers

(h) Where Boeing Alert Service Bulletin 767–28A0090, dated July 3, 2008, specifies replacing any actuator having P/N MA20A1001–1 with a new actuator having P/N MA30A1001, a new or serviceable actuator having any of the following part numbers is also acceptable as a replacement part: MA20A2027 (S343T003–56); MA11A1265–1 (S343T003–41); or AV–31–1 (S343T003–111).

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Douglas Bryant, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6505; fax (425) 917–6590.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

Issued in Renton, Washington, on March 30, 2009.

Steve Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–7805 Filed 4–6–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0288; Directorate Identifier 2008–NM–214–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–600, –700, –700C, –800, –900 and –900ER Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Boeing Model 737–600, –700, –700C, –800, –900 and –900ER series airplanes. This proposed AD would require modifying the fluid drain path in the wing leading edge area, forward of the wing front spar and doing all applicable related investigative and corrective actions. This proposed AD results from a report received of leaking fuel from the wing leading edge area at the inboard end of the number 5 leading edge slat. We are proposing this AD to prevent flammable fluids from accumulating in the wing leading edge and draining inboard and onto the engine exhaust nozzle, which could result in a fire.

DATES: We must receive comments on this proposed AD by May 22, 2009.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–

30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; e-mail *me.boecom@boeing.com*; Internet *https://www.myboeingfleet.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sam Spitzer, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6510; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2009–0288; Directorate Identifier 2008–NM–214–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We have been notified that leaking fuel from the wing leading edge area at the inboard end of the number 5 leading edge slat was discovered during a post-flight inspection on a Model 737 airplane with a fuel quantity of over 2,500 lbs. Subsequent investigation found that the leak occurred in an area of the front spar that does not have a proper drain path and appears to have been caused by a loose retaining nut of the slat track down stop. This led to the fuel draining onto the engine exhaust nozzle. This condition, if not corrected, could result in flammable fluids accumulating in the wing leading edge and draining inboard and onto the engine exhaust nozzle, which could result in a fire.

Relevant Service Information

We have reviewed Boeing Special Attention Service Bulletin 737–57–1293, dated November 13, 2008 (''the service bulletin''). The service bulletin describes procedures for modifying the fluid drain path in the wing leading edge area, forward of the wing front spar.

For Group 1 airplanes, the modification includes applying sealant to the cavities between the inboard slat track ribs and leading edge lower panels at certain slat stations in the left and right wings; installing a flame arrestor tube through the vapor barrier rib at the outboard leading edge strakelet box to direct fluids to the strut drain system; applying sealant to create a form-in-place gasket at the blowout door located under the strakelet box to prevent fluids from leaking onto the engine exhaust nozzle; replacing the existing seal in the fuel shut-off valve access door with a bulb seal to prevent flammable fluid leakage onto the engine exhaust nozzle; trimming the blowout door hinge; and related investigative and corrective actions if necessary. The related investigative and corrective actions include doing a leak test and reapplying sealant.

For Group 2 airplanes, the modification includes removing the parting agent and sealant at the lower leading edge access panel immediately outboard of the fuel shutoff valve access door in the left and right wings, and installing new parting agent and sealant; and doing related investigative and corrective actions if necessary. The related investigative actions include inspecting the blowout door hinge for trim and doing a leak test. The corrective actions include trimming the blowout door hinge and reapplying sealant.

FAA's Determination and Requirements of this Proposed AD

We are proposing this AD because we evaluated all relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the(se) same type design(s). This proposed AD would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

We estimate that this proposed AD would affect 754 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

TABLE 1—ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per product	Number of U.S.-registered airplanes	Fleet cost
Modification, Group 1	45	$80	$1,545	$5,145	Up to 754	Up to $3,879,330.
Install parting agent Group 2	23	80	None	1,840	Up to 754	Up to $1,387,360.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures

the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979), and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

You can find our regulatory evaluation and the estimated costs of compliance in the AD Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

Boeing: Docket No. FAA–2009–0288; Directorate Identifier 2008–NM–214–AD.

Comments Due Date

(a) We must receive comments by May 22, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 737–600, –700, –700C, –800, –900 and –900ER series airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 737–57–1293, dated November 13, 2008.

Unsafe Condition

(d) This AD results from a report received of leaking fuel from the wing leading edge area at the inboard end of the number 5 leading edge slat. We are issuing this AD to prevent flammable fluids from accumulating in the wing leading edge and draining inboard and onto the engine exhaust nozzle, which could result in a fire.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Corrective Actions

(f) Within 24 months after the effective date of this AD, modify the fluid drain path in the wing leading edge area, forward of the wing front spar, and do all applicable related investigative and corrective actions, by accomplishing all applicable actions specified in the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–57–1293, dated November 13, 2008. Do all applicable related investigative and corrective actions before further flight.

Alternative Methods of Compliance (AMOCs)

(g)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Sam Spitzer, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6510; fax (425) 917–6590.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

Issued in Renton, Washington, on March 12, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–7769 Filed 4–6–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 080304370–9128–01]

RIN 0648–AW52

Fisheries in the Western Pacific; Compensation to Commercial Bottomfish and Lobster Fishermen due to Fishery Closures in the Papahanaumokuakea Marine National Monument, Northwestern Hawaiian Islands

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

ACTION: Proposed rule; request for public comments.

SUMMARY: The Consolidated Appropriations Act, 2008, authorizes the Secretary of Commerce (Secretary), through NMFS, to provide monetary compensation to eligible Northwestern Hawaiian Islands (NWHI) commercial lobster permit holders who were, and commercial bottomfish permit holders who will be, displaced by fishery closures resulting from establishment of the Papah naumoku kea Marine National Monument (Monument) in the NWHI. This proposed rule describes and seeks public comment on a permit compensation proposal, which identifies eligible permit holders and describes the permit valuation methodology. Holders of NWHI commercial Federal bottomfish and lobster permits who voluntarily accept monetary compensation would be required to surrender their permits and leave the fisheries.

DATES: Comments must be received by May 4, 2009.

ADDRESSES: You may submit comments on the proposed rule, identified by 0648–AW52, by either of the following methods:

• Electronic Submission: Submit all electronic public comments via the Federal e–Rulemaking Portal *www.regulations.gov*; or

• Mail: William L. Robinson, Regional Administrator, NMFS, Pacific Islands Region (PIR), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814–4700.

Instructions: All comments received are a part of the public record and will generally be posted to *www.regulations.gov* without change. All personal identifying information (for example, name, address, etc.) submitted voluntarily by the commenter may be

publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments for publication and response, as appropriate (if you wish to remain anonymous, enter ''NA'' in the required name and organization fields). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

A regulatory impact review (RIR) that describes in more detail the permit valuation methodology, and an environmental assessment (EA) that analyzes the potential impacts of the proposed rule on the environment, are available from William L. Robinson (see **ADDRESSES**) and *www.regulations.gov*. An initial regulatory flexibility analysis (IRFA) is found in the section below.

FOR FURTHER INFORMATION CONTACT: Toby Wood, Sustainable Fisheries Division, NMFS PIR, 808–944–2234.

SUPPLEMENTARY INFORMATION:

Electronic Access

This proposed rule is also accessible on the World Wide Web at *www.gpoaccess.gov/fr*.

Background

On December 26, 2007, the President signed Public Law 110–161, the Consolidated Appropriations Act of 2008. The Act authorizes the Secretary to provide a mechanism for compensating bottomfish and lobster fishermen who were impacted as a result of the creation of the Monument on June 15, 2006 (Proclamation 8031, 71 FR 3644, June 26, 2006, as amended by Proclamation 8112, 72 FR 10031, March 6, 2007). Final regulations governing the Monument require that any commercial lobster fishing permit be subject to a zero annual harvest limit. Those regulations permanently closed the NWHI lobster fishery. The NWHI commercial bottomfish fishery is allowed to operate until June 15, 2011, when it will be closed permanently (see 71 FR 51134, August 29, 2006, and 50 CFR 404.10). Funding is authorized to develop and implement a program to compensate eligible persons who held valid commercial Federal NWHI bottomfish and lobster permits at the time the Monument was created. The Act appropriates $6,697,500 and directs the Secretary to promulgate rulemaking for a voluntary capacity reduction program that does the following:

(1) Identifies eligible NWHI bottomfish and lobster fishery permit holders affected by the establishment of the Monument;

(2) Provides a mechanism to compensate eligible permit holders for no more than the economic value of their permits; and

(3) In addition to the permit compensation provided under subparagraph (2) above, provides an optional funding mechanism whereby eligible participants may choose to receive additional compensation based on the value of their fishing vessel and gear, provided such vessels and gear will no longer be used for fishing.

This proposed rule would identify eligible permit holders and establish a process for voluntary permit compensation. A voluntary vessel buyout program is contingent on the availability of funds following the permit compensation, and NMFS does not propose to carry out this optional mechanism until after the initial permit compensation is complete. If funds are available, NMFS would publish a separate proposed rule that describes and seeks public comment on a vessel and gear buyout program.

Eligible Participants

The Act defines ''eligible participants'' as individuals holding commercial Federal fishing permits for either lobster or bottomfish in the designated waters within the Monument, at the time the Monument was established on June 15, 2006. NMFS has preliminarily identified eligible participants as holders of eight valid commercial Federal permits for bottomfish, and holders of 15 valid commercial Federal permits for lobster. NMFS is not authorized to provide compensation to any persons not meeting the definition of ''eligible participants'' under the program described in this proposed rule. As a condition of participation in the proposed program, eligible permit holders who voluntarily accept and receive permit compensation must immediately surrender their NWHI fishing permit to NMFS and agree to relinquish any claim associated with each permit.

Proposed NWHI Permit Compensation Methodology

NMFS proposes to determine the economic value of NWHI lobster and bottomfish Federal commercial fishing permits by using a proxy for the Net Present Value (NPV) of the permit that uses imputed (estimated) values in the absence of a documented market for the permits. NPV is commonly used in cash flow analyses to identify, evaluate, and compare the value of a particular investment. The components of the NPV calculation include (1) an initial base value, often revenue, for one or more years of fishing, (2) a discount rate to adjust the base value for the value of future earnings, and (3) the time period over which the base value will be discounted. For both lobster and bottomfish permits, NMFS proposes to use a discount rate of 2.7 percent (the real interest rate for a Treasury bond as prescribed by Office of Management and Budget, Circular A–4, Appendix C, revised January 2008 (*www.whitehouse.gov/omb/circulars/a094/a94__appx–c.html*) over a period of 30 years. This 30–yr period is based on the approximate life of a typical fishing vessel and the *de facto* reality that discounting outside a 30–yr time horizon returns low values. It is also the typical period of tax table depreciation, and is a standard time horizon for capital asset budgeting.

The NPV formula accounts for the flow of the valuation variable over an agreed time period:

$$NPV = (income_to_permit_holder)\sum_{i-1}^{N}(1+\lambda)^{-i}$$

where i is the year index, N is the length of the evaluation period, *income to permit holder* is the proxy for net revenue, and λ is the discount rate over the evaluation period. Because the discount rate is positive, the discounted NPV will necessarily be less than the total of individual payments were NMFS to propose making annual partial payments over the 30-year period.

The proxy for NPV of net revenue is a multiple of annual gross revenue based on a variety of separate investigations of these relationships (which are not precise, but in which gross revenue has the benefit of being more transparent, within the constraints

of Federal confidentiality statutes, and straightforward to calculate).

While NMFS proposes to use standard NPV methodology to determine the economic value of commercial fishing permits in both the lobster and bottomfish fisheries, NMFS proposes two distinctly different time periods for the determination of the base value. NMFS proposes that this time period be the three consecutive years in which each fishery operated immediately prior to the designation of the Monument. These time periods are different for each fishery in recognition of different operational and historical circumstances of each fishery.

Bottomfish

NWHI bottomfish permits were/are not transferable, so there was no established market on which to determine their value. Thus, NMFS proposes to determine the economic value of each of the eight Federal bottomfish permits individually using the base value time period of 2003–05. That is, the NPV of each permit, individually, would reflect the average ex–vessel net revenue, calculated as the ex–vessel gross revenue proxy times a multiplier of approximately 2.5 that considers the discount rate, determined by NMFS examination of documented records for the 2003–05 time period. Thus, the economic value of each permit, and the NMFS compensation offer, will be different for each of the eight permit holders, based on the 2003–05 fishing record associated with each permit (i.e., the average individual ex-vessel gross revenue for 2003–05 multiplied by approximately 2.5). All imputed values will be updated to current dollar figures based on Consumer Price Indices.

Lobster

NWHI lobster permits were/are transferable, so it is theoretically possible to consider market exchange values were they available to NMFS. However, this would likely be problematic for several reasons. The NWHI lobster permit market is small, unmonitored, and has been largely inactive over the past eight years. In the later years of operation, the lobster fishery was undergoing operational changes including the formation of a cooperative to manage fishing capacity and costs, and to share revenue among permit holders. Also, some vessels were experimenting with higher value–added production methods to allow the export of live lobsters to Asian markets. All of these factors make it difficult to determine the economic value of each individual lobster permit.

Thus, NMFS proposes to determine the economic value of each of the 15 Federal lobster permits collectively using the base value time period of 1997–99. That is, the NPV of each permit would use a similar ex–vessel gross revenue proxy to reflect the average ex–vessel net revenue for the fleet as a whole for the 1997–99 time period, times a multiplier of approximately 2.5 that considers the discount rate. Thus, the economic value of each permit, and the NMFS compensation offer, will be identical for all 15 permit holders. All imputed values will be updated to current dollar figures based on Consumer Price Indices.

Implementation

NMFS proposes to notify eligible permit holders in writing of their individual permit compensation offer, as determined by the compensation mechanism described herein. It is important to note that if the total economic value of all permits combined is greater than the authorized amount minus administrative costs associated with implementing the compensation program, then the amount of monetary compensation disbursed to all participants would be prorated. Within 30 days of receipt of notification, each permit holder would need to review the permit compensation offer, and would be required to notify NMFS in writing of either their voluntary acceptance or non–acceptance of the compensation offer. Failure to inform NMFS of a decision (i.e., acceptance or non–acceptance decision) by the prescribed deadline date would be deemed a non–acceptance by the permit holder. This determination by NMFS of non–acceptance for compensation shall be deemed final and is not subject to agency appeal.

At the conclusion of the 30-day response period, NMFS or its authorized contractor would review all responses from permit holders, identify those who have accepted NMFS' offer of permit compensation, and disburse compensation funds to the permit holders who have accepted. A permit holder's acceptance of compensation funds would immediately invalidate the holder's Federal permit in the NWHI bottomfish and/or lobster fishery, as appropriate, and such permit would be immediately surrendered to NMFS. NMFS would notify the permit holder, at the time that compensation funds are disbursed, that his or her permit is no longer valid, and the vessel would no longer be eligible to participate in the fishery for which compensation has been received. Vessel owners who have not accepted NMFS' offer of permit compensation are authorized to continue fishing in accordance with the terms and conditions of their respective permits, and to the extent otherwise permitted by law. Permit holders should note that commercial fishing for lobster in waters of the Monument is now prohibited, and that fishing for commercial bottomfish and associated pelagic species will be prohibited in waters of the Monument after June 15, 2011. NMFS solicits comments on the proposed compensation methodology and process.

Transferability of Compensation

Given that the NWHI lobster fishery was closed permanently as a result of the designation of the Monument, any permit compensation would be provided to the holder of the permit that was valid on the date of the Monument's designation, i.e., June 15, 2006. Although the NWHI bottomfish fishery remains open until June 15, 2011, the permits are not transferrable, so the bottomfish permit compensation would be available only to the holder of the permit at the time the compensation funds are disbursed. Since bottomfish permits are not transferable, any claim to permit compensation is both non–transferable and non–assignable. Accordingly, only the NWHI bottomfish permit holder of record shall be deemed an eligible participant for purposes of receiving permit compensation under this program.

Future Vessel and Gear Buyout Compensation

Contingent on the availability of appropriated funds after all permit compensation payouts have been made, NMFS proposes to offer compensation to buy back vessels and gear from eligible participants, based on the fair market value of the vessels and gear. For purposes of this proposed program, ''eligible participants'' shall have the same meaning as described in the permit compensation program above. Because of the limited funds appropriated by Congress for this purpose, there is no guarantee that NMFS actually will offer compensation for any, or all, vessels and gear that otherwise may qualify for this program.

NMFS proposes to use a standard approach in vessel buyout, i.e., reverse auction, where each eligible permit holder would specify a buyout price for retiring their vessel(s) from commercial fishing. NMFS would rank and accept bids, and disburse funds, beginning with the lowest bid and continuing through the bids sequentially until remaining funds were exhausted. Public

comments are sought on this approach and possible alternatives, including methods for valuing vessels and associated gear, and other standard approaches, such as a lottery system or blind auction.

Consistent with the purposes of this buyout, NMFS would require, as a condition of compensation, proof that the vessel and gear have been permanently removed from use in all U.S. commercial fisheries, as defined in 46 U.S. Code § 12101(a). Proof of permanent removal from fisheries may be satisfied by taking any of the following actions:

(1) Providing evidence of scrapping the vessel, which would require disassembly and/or scuttling the vessel in an ecologically safe manner. This method suggests additional costs which would need to be considered in the buyout process; or

(2) Surrendering the vessel's fishery endorsement and transferring the vessel to non-fishing uses. For example, vessels could be transferred to a U.S. public entity, a U.S. nonprofit organization, or a foreign national government for use in research (including fisheries research), education, training, humanitarian work, safety or law enforcement, etc., depending on the group's objectives.

NMFS proposes that vessel owners bear all costs associated with the scrapping or transfer of vessels that are bought out under this program. Funds received from the buyout compensation can be used for this purpose.

Classification

The NMFS Assistant Administrator has determined that this proposed rule is consistent with the Consolidated Appropriations Act of 2008 and other applicable laws, subject to further consideration after public comment.

This proposed rule has been determined to be significant for purposes of Executive Order 12866.

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities as follows. A description of the action, why it is being considered, and the legal basis for this action are found at the beginning of this section in the preamble and in the SUMMARY section of the preamble. The analysis follows:

This proposed rule will impact the vessel owners who held 15 NWHI lobster permits and eight NWHI bottomfish permits at the time the Monument was designated. These permit holders were determined initially by NMFS to be eligible for compensation under The Act. The Small Business Administration's accepted definition of a small fish harvester as a vessel that produces no more than $4.0 million in gross revenue annually. Using this definition, all permit holders who are eligible for compensation are defined as small entities. There are no disproportionate economic impacts from this action based on vessel size or home port. There are no recordkeeping, reporting, or other compliance requirements associated with this proposed rule. There are no Federal rules that duplicate, overlap, or conflict with this rule. There would be no adverse economic impact to any of the eligible NWHI bottomfish and lobster permit holders resulting from this rule.

For bottomfish permit holders, the amount of monetary compensation would be derived from an NPV calculation using average ex-vessel net revenue projected over 30 years, and would be imputed as the ex-vessel gross revenue for 2003–05 times a multiplier of approximately 2.5, which is based on the 30–yr discount rate.

The lobster permit holders would receive compensation in the form of equal payments derived from NPV of the fleet–wide average ex-vessel net revenue for 1997–99, and imputed using a similar ex-vessel gross revenue determination times the multiplier of approximately 2.5, based on the 30–yr discount rate. The 1997–99 period represents the last years that lobster fishing in the NWHI operated under NMFS harvest guidelines. The NPV for the lobster fishery would use the same discount rate and time period as the value imputed for bottomfish permit holders. The real interest rate for 30-year treasury notes and bonds as prescribed by Office of Management and Budget, Circular A–4, Appendix A, is 2.7 percent.

While the intention is to base the imputed value on net revenue calculations, this is difficult given the unavailability of individual cost data. Therefore, NMFS will use a proxy for net revenue based on total, or gross, revenue. Since profit margins within each fishery are assumed to be similar, this would not affect relative amounts of compensation. In addition, with a relatively low real discount rate (2.7 percent) and long time frame (30 years), the differences between net and total revenues will be mitigated.

NMFS will estimate the permit values using official NMFS and State of Hawaii commercial fishing records for the respective time periods. For a more thorough description of the methodology used to determine the economic values of these permits, see Appendix A to the RIR (see **ADDRESSES**). Any residual funds following the permit compensation program would be available for the vessel and gear buyout program using a standard vessel buyout approach, such as a reverse auction, lottery system, or blind auction.

Authority: Pub. L. 110–161.

Dated: April 2, 2009.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. E9–7860 Filed 4–6–09; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 74, No. 65
Tuesday, April 7, 2009

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Economic Research Service

Notice of Intent To Request Revision and Extension of a Currently Approved Information Collection

AGENCY: Economic Research Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) implementing regulations, this notice announces the Economic Research Service's (ERS) intention to request renewal of approval for an annual information collection on supplemental food security questions in the Current Population Survey (CPS), commencing with the December 2009 survey. These data will be used: to monitor household-level food security and food insecurity in the United States; to assess food security and changes in food security for population subgroups; to assess the need for, and performance of, domestic food assistance programs; to improve the measurement of food security; and to provide information to aid in public policy decisionmaking.

DATES: Comments on this notice must be received by June 11, 2009. to be assured of consideration.

ADDRESSES: Address all comments concerning this notice to Mark Nord, Food Assistance Branch, Food Economics Division, Economic Research Service, U.S. Department of Agriculture, 1800 M Street, NW., Room N–2180, Washington, DC 20036–5831. Submit electronic comments to *marknord@ers.usda.gov*.

FOR FURTHER INFORMATION CONTACT: For further information, contact Mark Nord at the address in the preamble. Tel. 202–694–5433.

SUPPLEMENTARY INFORMATION:

Title: Application for an Annual Food Security Supplement to the Current Population Survey, Beginning in December 2009.

Type of Request: Approval to collect information on household food insecurity.

OMB Number: 0536–0043.

Expiration Date: September 30, 2009.

Duration of Proposed Extension: 36 months, to September 30, 2012.

Abstract: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and OMB regulations at 5 CFR Part 1320 (60 FR 44978, August 29, 1995), this notice announces the ERS intention to request renewal of approval for an annual information collection. The U.S. Census Bureau will supplement the December CPS, beginning in 2009, with questions regarding household food shopping, use of food and nutrition assistance programs, food sufficiency, and difficulties in meeting household food needs. A similar supplement has been appended to the CPS annually since 1995. The last collection was in December 2008.

Copies of this information collection can be obtained from Mark Nord at the address in the preamble.

ERS is responsible for conducting studies and evaluations of the Nation's food and nutrition assistance programs that are administered by the Food and Nutrition Service (FNS), U.S. Department of Agriculture. The Department currently spends about $60 billion each year to ensure access to nutritious, healthful diets for all Americans. The Food and Nutrition Service administers the 15 food assistance programs of the USDA including the Supplemental Nutrition Assistance Program (SNAP), formerly called the Food Stamp Program, the National School Lunch Program, and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). These programs, which serve 1 in 5 Americans, represent our Nation's commitment to the principle that no one in our country should lack the food needed for an active, healthy life. They provide a safety net to people in need. The programs' goals are to provide needy persons with access to a more nutritious diet, to improve the eating habits of the Nation's children, and to help America's farmers by providing an outlet for the distribution of food purchased under farmer assistance authorities.

The data collected by the food security supplement will be used to monitor the prevalence of food security and the prevalence and severity of food insecurity among the Nation's households. The prevalence of these conditions as well as year-to-year trends in their prevalence will be estimated at the national level and for population subgroups. The data will also be used to monitor the amounts that households spend for food and their use of community food pantries and emergency kitchens. These statistics along with research based on the data will be used to identify the causes and consequences of food insecurity, and to assess the need for, and performance of, domestic food assistance programs. The data will also be used to improve the measurement of food security and to develop measures of additional aspects and dimensions of food security. This consistent measurement of the extent and severity of food insecurity will aid in policy decision-making.

The supplemental survey instrument was developed in conjunction with food security experts nationwide as well as survey method experts within the Census Bureau and was reviewed in 2006 by the Committee on National Statistics of the National Research Council. This supplemental information will be collected by both personal visit and telephone interviews in conjunction with the regular monthly CPS interviewing. All interviews, whether by personal visit or by telephone, are conducted using computers.

Estimate of Burden: Public reporting burden for this data collection is estimated to average 7.6 minutes for each household that responds to the labor force portion of the CPS. The estimate is based on timing of questions in a pilot survey conducted during development of the questionnaire and an analysis of the number of households that were asked each series of questions in recent survey years.

Respondents: Individuals or households.

Estimated Number of Respondents: 54,400.

Estimated Total Annual Burden on Respondents: 6,915 hours.

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 will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments should be sent to the address in the preamble. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: March 20, 2009.

John R. Kort,

Acting Administrator, Economic Research Service.

[FR Doc. E9–7715 Filed 4–6–09; 8:45 am]

BILLING CODE 3410–18–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service (RUS) invites comments on this information collection for which approval from the Office of Management and Budget (OMB) will be requested.

DATES: Comments on this notice must be received by June 8, 2009.

FOR FURTHER INFORMATION CONTACT: Thomas P. Dickson, Deputy Director, Program Development and Regulatory Analysis, USDA RUS, 1400 Independence Ave., SW., Stop 1522, Room 5818 South Building, Washington, DC 20250–1522. Telephone: (202) 690–4492. Fax: (202) 720–8435. E-mail: *thomas.dickson@wdc.usda.gov*.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (*see* 5 CFR 1320.8(d)). This notice identifies an information collection that will be submitted to OMB for extension.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information 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. Comments may be sent to: Michele Brooks, Director, Program Development and Regulatory Analysis, USDA RUS, Stop 1522, 1400 Independence Ave., SW., Washington, DC 20250–1522. Fax: (202) 720–8435.

Title: RUS Form 675, Certification of Authority.

OMB Control Number: 0572–0074.

Type of Request: Revision of a currently approved information collection.

Abstract: The Rural Utilities Service (RUS) manages loan programs in accordance with the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*) (RE Act). A major factor in managing loan programs is controlling the advance of funds. One reason to control funds is so that the actual borrowers get their money. The use of RUS Form 675 allows this control to be achieved by providing a list of authorized signatures against which signatures requesting funds are compared. RUS Form 675 provides an effective control against the unauthorized release of funds by providing a list of authorized signatures. OMB Circular A–123, Management Accountability and Control, states that information should be maintained on a current basis and that cash should be protected from unauthorized use. Form 675 allows borrowers to keep RUS up-to-date of any changes in signature authority and controls the release of funds only to authorized borrower representatives.

Estimate of Burden: Public reporting for this collection of information is estimated to average .10 hours per response.

Respondents: Business or other for profit; Not-for-profit institutions; and State, Local, or Tribal government.

Estimated Number of Respondents: 250.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 25.0 hours.

Copies of this information collection can be obtained from Thomas P. Dickson, Program Development and Regulatory Analysis, at (202) 690–4492. Fax: (202) 720–8435. E-mail: *thomas.dickson@wdc.usda.gov.*

All responses to this notice will be summarized and included in the request for OMB approval.

All comments will also become a matter of public record.

Dated: March 31, 2009.

James R. Newby,

Acting Administrator, Rural Utilities Service.

[FR Doc. E9–7722 Filed 4–6–09; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service (RUS) invites comments on this information collection for which approval from the Office of Management and Budget (OMB) will be requested.

DATES: Comments on this notice must be received by June 8, 2009.

FOR FURTHER INFORMATION CONTACT: Thomas P. Dickson, Deputy Director, Program Development and Regulatory Analysis, USDA RUS, 1400 Independence Ave., SW., STOP 1522, Room 5158 South Building, Washington, DC 20250–1522. Telephone: (202) 690–4492. FAX: (202) 720–8435. E-mail: *thomas.dickson@wdc.usda.gov*.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR part 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR

1320.8(d)). This notice identifies an information collection that will be submitted to OMB for extension.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information 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. Comments may be sent to: Michele Brooks, Director, Program Development and Regulatory Analysis, USDA RUS, STOP 1522, 1400 Independence Ave., SW., Washington, DC 20250–1522. FAX: (202) 720–8435.

Title: Extensions of Payments of Principal and Interest.

OMB Control Number: 0572–0123.

Type of Request: Extension of a currently approved information collection.

Abstract: This collection of information consists of information on the procedures which borrowers must follow in order to request extensions of principal and interest. Authority for these is contained in section 12 of the Rural Electrification Act of 1936 (REAct), as amended and in section 236 of the ''Disaster Relief Act of 1970 (Pub. L. 91–606), as amended by the Department of Agriculture Reorganization Act of 1994 (Pub. L. 103–354). Eligible purposes include financial hardship, energy resource conservation (ERC) loans, renewable energy projects, distributed generation projects, and contribution-in-aid of construction. These procedures are codified at 7 CFR part 1721, subpart B.

Estimate of Burden: Public reporting for this collection of information is estimated to average 4.71 hours per response.

Respondents: Not-for-profit institutions.

Estimated Number of Respondents: 90.

Estimated Number of Responses per Respondent: 2.

Estimated Total Annual Burden on Respondents: 424 hours.

Copies of this information collection can be obtained from Thomas P. Dickson, Program Development and Regulatory Analysis, at (202) 690–4492. FAX: (202) 720–8435. E-mail: *thomas.dickson@wdc.usda.gov*.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: March 31, 2009.

James R. Newby,

Acting Administrator, Rural Utilities Service.

[FR Doc. E9–7720 Filed 4–6–09; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Willow Creek Pass Fuel Reduction Project

AGENCY: Forest Service, USDA—Medicine Bow-Routt National Forests; Hahns Peak-Bears Ears Ranger District, Steamboat Springs, Colorado.

PROJECT: Willow Creek Pass Fuel Reduction Project.

ACTION: Notice of intent to prepare an environmental impact statement (EIS).

SUMMARY: The mountain pine beetle epidemic is continuing to cause large areas of mortality to lodgepole pine throughout the Medicine Bow-Routt National Forests. Adjacent private lands are experiencing mortality along shared boundaries and an increasing number of homeowner associations are taking preventive steps to provide defensible space around their properties and reduce overhead hazard trees.

The Willow Creek Pass Village Homeowners Association (WCPV–HOA) has requested assistance with increasing defensible space and removal of hazard trees on Forest lands (east) adjacent to their private boundary.

This project is an ''authorized and covered project'' under Title I of the Healthy Forests Restoration Act (HFRA). We will be using expedited procedures authorized by this Act to complete project planning and decision-making. Use of this authority requires an emphasis on collaboration with local communities and a determination that an epidemic exists by consulting with forest health specialists.

DATES: The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and available for public review during April 2009. At that time, the EPA will publish a Notice of Availability (NOA) of the draft EIS in the **Federal Register**. The comment period on the draft EIS will be for a period of not less than 45 days from the date the EPA publishes the NOA in the **Federal Register**. It is important that those interested in the management of this area comment at that time.

The final EIS is expected to be available in June 2009. In the final EIS, the Forest Service will respond to any comments received during the public comment period that pertain to the environmental analysis. Those comments and the Forest Service responses will be disclosed and discussed in the final EIS and will be considered when the final decision about this proposal is made.

ADDRESSES: Send written comments to Jamie Kingsbury, District Ranger, 925 Weiss Drive, Steamboat Springs, Colorado 80487. Comments may also be sent via e-mail or facsimile. E-mail to: *comments-rocky-mountain-medicine-bow-routt-hahns-peak-bears-ears@fs.fed.us*, include ''Willow Creek Pass'' in the subject line of the e-mail message, or via facsimile to 970–870–2284.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered; however, anonymous comments will not provide the respondent with standing to appeal the subsequent decision.

FOR FURTHER INFORMATION CONTACT: Brian Waugh—Environmental Coordinator (970–870–2185) or Andy Cadenhead—Supervisory Forester (970–870–2220), Medicine Bow-Routt National Forests, 925 Weiss Drive, Steamboat Springs, Colorado 80487.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The purpose of the Willow Creek Pass Project is to provide defensible space along the boundary shared with the U.S. Forest Service and reduce fuel and overhead hazards adjacent to the private properties in the WCPV–HOA. This would include reducing hazard fuels in close proximity to private in-holdings and adjacent properties of the WCPV–HOA, creating defensible space to provide increased protection from wildland fire events, and removing hazard trees that could fall on private residences and other improvements in the Willow Creek Pass Village Homeowners Association.

There is a need to:

- Reduce the development of continuous high hazard fuel conditions.

• Reduce hazard trees within damage distance to private dwellings.
• Remove beetle killed and dying lodgepole pine.
• Promote regeneration of aspen and other conifer species to expedite the establishment of the next forest.

Proposed Action

The proposed action would occur in the Dome Peak inventoried roadless area. After the proposed Colorado Roadless Rule decision has been signed, this project would be permitted with an Environmental Impact Statement.

The Willow Creek Pass Village Homeowners Association proposal was modified slightly by specialists with the U.S. Forest Service, HPBE Ranger District to treat approximately 100 acres of mature forested stands where lodgepole pine is dead and dying from the ongoing beetle epidemic. The proposed treatment area on National Forest lands is adjacent to the Willow Creek Pass Village Homeowners Association. Access onto the Forest would be through the Marshall Property on the south end and private property to be determined in the central part of the project area where approximately ¼ mile of temporary road would be constructed for the hazard tree removal and then obliterated at the end of the project. The last access would be on an existing dead end road spur that accesses a user trail onto the Forest. This northernmost access would require no temporary road as skidding would occur to the existing access location. Lodgepole pine would be targeted for removal along the shared Forest and private boundaries approximately 800 feet east inside the Forest boundary. The heaviest removal would extend from the shared boundary to a temporary road with whole-tree skidding required from the shared Forest/homeowner boundary to the temporary road east of the boundary approximately 300 feet.

The proposed action would remove all lodgepole pine down to 5 inches diameter at breast height and all other hazard trees greater than 7 inches diameter at breast height. Hazard trees within 300 feet of the shared Forest/homeowner boundary would be whole-tree skidded to a landing along the temporary road, limbed and decked at this location. Removal east of the temporary road could be whole-tree skidded or lopped and scattered at point of felling with excess slash piled for later fall/winter burning operations.

The project area can be accessed off of Routt County Road (RCR) 129 along existing roads in the WCPV–HOA subdivision east of RCR 129. The existing roads in the homeowners association are well maintained and would require little maintenance for log hauling. New temporary roads would need to be constructed from private properties onto forest lands to facilitate accessing and removing the timber. The temporary roads, skid trails, and landings would be reclaimed to their original contours and permanently closed at the end of the project.

Responsible Official

The responsible official is Jamie Kingsbury, District Ranger, Hahns Peak/Bears Ears Ranger District, 925 Weiss Drive, Steamboat Springs, Colorado 80487.

Nature of Decision To Be Made

The decision will be whether to treat dead and dying lodgepole pine timber affected by the mountain pine beetle epidemic in the Dome Peak Inventoried Roadless Area adjacent to the private properties of the Willow Creek Pass Village Homeowners Association that are fuel and overhead hazards to the community. If the decision is to treat the hazard fuels and standing hazards to complement the on-going work on private lands, the type, distribution, and priority of treatments would be decided with consideration for resource protection for watersheds, recreation, scenery, and wildlife habitat.

Preliminary Issues

• Subdivision road maintenance and repair.
• Smoke management during pile burning.
• Logging vehicle conduct on subdivision roads during hauling.

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the Environmental Impact Statement (EIS). The Forest Service has listed the project in the Schedule of Proposed Actions that is posted on the Web. A field trip on July 26, 2008 with Forest Service specialists and interested homeowners reviewed the proposed project area and potential treatments. At least one additional meeting is planned after the draft EIS is available. The Forest Service will also respond to information requests about the project and add additional public meetings and field trips as interest dictates.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions. The submission of timely and specific comments can affect a reviewer's ability to participate in subsequent administrative appeal or judicial review.

Release of Names

Comments received in response to this solicitation, including names and addresses of those who commented, will be considered part of the public record on this Proposed Action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to object to the subsequent decision under 36 CFR Part 218. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under the FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within ten (10) days.

Early Notice of Importance of Public Participation in Subsequent Environmental Review: A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, that it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised during the draft environmental impact statement stage, but are not raised until after completion of the final environmental impact statement, may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016,

1022 (9th Cir. 1986) and *Wisconsin Heritages,* Inc. v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this Proposed Action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns related to the Proposed Action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft document. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives displayed in the document. Reviewers should refer to the Council on Environmental Quality Regulations at 40 CFR 1503.3 for implementing the procedural provisions of the National Environmental Policy Act for addressing these points.

Dated: March 22, 2009.

Mary H. Peterson,

Forest Supervisor, Medicine Bow-Routt National Forests.

[FR Doc. E9–7490 Filed 4–6–09; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Bighorn National Forest; Wyoming; Livestock Grazing and Vegetation Management EIS; Livestock Grazing and Vegetation Management on Six Geographic Areas on the Tongue, Medicine Wheel/Paintrock, and Powder River Ranger Districts, Bighorn National Forest, Sheridan, Johnson, Washakie, and Big Horn Counties, WY

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA, Forest Service, will prepare an environmental impact statement (EIS) to implement vegetation management strategies on forty three (43) domestic livestock grazing allotments, which will result in development of new allotment management plans (AMPs). On portions of the analysis area, fuel management in forested and sagebrush/grassland communities is being analyzed. The agency gives notice of the full environmental analysis and decision-making process so that interested and affected people are aware of how they may participate in the process and contribute to the final decision.

DATES: Comments concerning the scope of the analysis must be received by May 7, 2009. Based on past actions of this type, the Responsible Official has determined that an environmental impact statement will be prepared for this project. The draft environmental impact statement is expected January 2010 and the final environmental impact statement is expected September 2010.

ADDRESSES: Send written comments to William T. Bass, Bighorn National Forest Supervisor, 2013 Eastside Second Street, Sheridan, Wyoming 82801. Comments may also be sent via e-mail to *comments-bighorn@fs.fed.us* or via facsimile to 307–674–2668.

It is important that reviewers provide their comments at such times and in such a way that they are useful to the Agency's preparation of the EIS. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions. The submission of timely and specific comments can affect a reviewer's ability to participate in subsequent administrative review or judicial review.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered; however, anonymous comments will not provide the respondent with standing to participate in subsequent administrative review or judicial review.

FOR FURTHER INFORMATION CONTACT: Laurie Walters-Clark, Interdisciplinary Team Leader, Bighorn National Forest, phone (307) 674–2627.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: This NOI corrects two past notices: Beaver Creek NOI (5/16/07) and Goose Creek NOI (5/29/08). These allotments are being included in this analysis. All comments received on Beaver Creek or Goose Creek will be retained for this analysis.

The 43 allotments to be analyzed are located in the Shell Creek, Paintrock Creek, Goose Creek, Little Bighorn River, Piney Creek/Rock Creek, and Tensleep geographic areas as mapped by the 2005 Bighorn National Forest Revised Land and Resource Management Plan (Forest Plan). Only National Forest System lands (NFS) within the Bighorn National Forest will be considered in the proposal. The purpose of the analysis is to determine if livestock grazing will continue on the analysis area. If the decision is to continue livestock grazing, management strategies outlining how livestock are to graze will be developed to assure implementation of Forest Plan management direction. The analysis will consider actions that continue to improve trends in vegetation, watershed conditions, and ecological sustainability relative to livestock grazing and fire and fuel management within the allotments. Management actions are proposed to be implementated beginning in the year 2011. The Forest Plan identified livestock grazing as an appropriate use and made initial determinations for lands capable and suitable for grazing by domestic livestock. The Forest Plan also identified fuel management activities as appropriate, where needed to maintain or restore ecosystem health.

The 43 allotments involved are: Antelope Ridge Sheep and Goat, Bear/Crystal Creek Sheep and Goat, Beaver Creek Sheep and Goat, Finger Creek Cattle and Horse, Grouse Creek Sheep and Goat, Hunt Mountain Sheep and Goat, Little Horn Sheep and Goat, Red Canyon Cattle and Horse, Red Canyon Sheep and Goat, Sunlight Mesa Cattle and Horse, Whaley Creek Sheep and Goat, Wiley-Sundown Cattle and Horse, Matthews Ridge Cattle and Horse, South Park Cattle and Horse, Big Goose Cattle and Horse, Little Goose Cattle and Horse, Little Goose Canyon Cattle and Horse, Walker Prairie Cattle and Horse, Rapid Creek Cattle and Horse, Stull Lakes Cattle and Horse, Tourist Horse Special Use Permit, Fisher Mountain Cattle and Horse, Little Horn Cattle and Horse, Red Springs Cattle and Horse, Sage Basin Cattle and Horse, Wyoming Gulch Cattle and Horse, Dry Fork Ridge Cattle and Horse, Lake Creek Cattle and Horse, Lower Dry Fork Cattle and Horse, West Pass Cattle and Horse, Rock Creek Cattle and Horse, Baby Wagon Sheep and Goat, Dry Tensleep Cattle and Horse, Garnet Creek Sheep and Goat, Hazelton Sheep and Goat, Leigh Creek Sheep and Goat, McLain Lake Sheep and Goat, Monument Cattle and Horse, North Canyon Cattle and Horse, South Canyon Cattle and Horse, Tensleep Canyon Cattle and Horse, Upper Meadows Sheep and Goat, and Willow Sheep and Goat. The proposed fire and fuel management actions all occur within the above allotment boundaries.

Purpose and Need for Action

The purpose of this project is to determine if livestock grazing will continue to be authorized on the allotments, and if it is to continue, how to best utilize adaptive management strategies to maintain or achieve desired conditions and meet forest plan objectives. Livestock grazing is currently occurring on most of the allotments under existing allotment management plans (AMPs) and through direction provided in the Annual Operating Instructions (AOI).

Proposed Action

The proposed action is to continue livestock grazing using adaptive management strategies to meet or move toward meeting Forest Plan and allotment-specific desired conditions. This may include changing livestock management strategies as well as construction of additional range improvements (fences and water developments). The proposed action also includes the use of various fuel management methods within portions of some allotments.

Possible Alternatives

Two additional alternatives have been identified to date: (1) No action; remove livestock grazing from these allotments and no additional fire and fuel management actions over what are already approved, and (2) No change; continuance of current management strategies.

Responsible Official

The District Rangers that administer the term grazing permis are the responsible officials. They are: Clarke McClung, Tongue Ranger District, Bighorn National Forest, 2013 Eastside 2nd Street, Sheridan, Wyoming 82801, Dave Sisk, Medicine Wheel/Paintrock Ranger District, 604 East Main Street, Lovell, Wyoming 82431, and Mark Booth, Powder River Ranger District, 1415 Fort Street, Buffalo, Wyoming 82834.

Nature of Decision To Be Made

The Responsible Officials will consider the results of the analysis and its finding and then document the final decision in one or more Records of Decision (ROD). The decisions will determine whether or not to authorize livestock grazing, adaptive management strategies, design criteria, monitoring and fuel management activities on all, part, or none of the allotments, and if so, what adaptive management design criteria, adaptive options, and monitoring will be implemented so as to meet or move toward meeting the desired conditions in the defined timeframe.

Scoping Process

This notice of intent continues the scoping process, which guides the development of the environmental impact statement. A scoping document for this project is planned to be available March 2009.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions. The submission of timely and specific comments can affect a reviewer's ability to participate in subsequent administrative appeal or judicial review.

Dated: March 27, 2009.

William T. Bass,

Forest Supervisor.

[FR Doc. E9–7558 Filed 4–6–09; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Lake Tahoe Basin Federal Advisory Committee (LTFAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Lake Tahoe Basin Federal Advisory Committee will hold a meeting on May 5, 2009 at the Tahoe Regional Planning Agency, 128 Market Street, Stateline, NV 89449. This Committee, established by the Secretary of Agriculture on December 15, 1998 (64 FR 2876), is chartered to provide advice to the Secretary on implementing the terms of the Federal Interagency Partnership on the Lake Tahoe Region and other matters raised by the Secretary.

DATES: The meetings will be held May 5, 2009, beginning at 12 p.m. and ending at 5 p.m.

ADDRESSES: The meeting will be held at the Tahoe Regional Planning Agency, 128 Market Street, Stateline, NV 89449.

For Further Information or to Request an Accommodation (one week prior to meeting date) Contact: Aria Hains, Lake Tahoe Basin Management Unit, Forest Service, 35 College Drive, South Lake Tahoe, CA 96150, (530) 543–2773.

SUPPLEMENTARY INFORMATION: Items to be covered on the agenda: (1) Discuss policy associated with the Federal share environmental improvement program for capital projects located on private land; (2) review and discuss public comments and congressional input on LTFAC's preliminary recommendation of Lake Tahoe Southern Nevada Public Land Management Act (SNPLMA) Round 10 capital projects and science themes, and (3) develop a final LTFAC recommendation for the Lake Tahoe SNPLMA Round 10 capital projects and science themes.

All Lake Tahoe Basin Federal Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend at the above address. Issues may be brought to the attention of the Committee during the open public comment period at the meeting or by filing written statements with the secretary for the Committee before or after the meeting. Please refer any written comments to the Lake Tahoe Basin Management Unit at the contact address stated above.

Dated: March 26, 2009.

Terri Marceron,

Forest Supervisor.

[FR Doc. E9–7419 Filed 4–6–09; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Lincoln County Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Kootenai National Forest's Lincoln County Resource Advisory Committee will meet on Wednesday, April 8, 2009 at 6 p.m. at the Forest Supervisor's Office in Libby, Montana for a business meeting. The meeting is open to the public.

DATES: April 8, 2009.

ADDRESSES: Forest Supervisor's Office, 31374 US Hwy 2, Libby, Montana.

FOR FURTHER INFORMATION CONTACT: Willie Sykes, Committee Coordinator, Kootenai National Forest at (406) 283–7694, or e-mail *wsykes@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda will include a consideration of 2009 project proposals from the Rexford Ranger District and the Fortine Ranger District and receiving public comment. If the meeting date or location is

changed, notice will be posted in the local newspapers, including the Daily Interlake based in Kalispell, Montana.

Dated: March 27, 2009.

Paul Bradford,

Forest Supervisor.

[FR Doc. E9–7604 Filed 4–6–09; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Central Idaho Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self Determination Act of 2000 (Pub. L. 106–393), the Salmon-Challis National Forest's Central Idaho Resource Advisory Committee will conduct a business meeting which is open to the public.

DATES: Monday, April 20, 2009, beginning at 10 a.m.

ADDRESSES: Public Lands Center, 1206 South Challis Street, Salmon, Idaho.

SUPPLEMENTARY INFORMATION: Agenda topics will include review and approval of project proposals, and is an open public forum.

FOR FURTHER INFORMATION CONTACT: William A. Wood, Forest Supervisor and Designated Federal Officer, at 208–756–5111.

Dated: March 27, 2009.

William A. Wood,

Forest Supervisor, Salmon-Challis National Forest.

[FR Doc. E9–7452 Filed 4–6–09; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Southwest Idaho Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000, as amended, (Pub. L. 110–343), the Boise and Payette National Forests' Southwest Idaho Resource Advisory Committee will conduct a business meeting. The meeting is open to the public.

DATES: Thursday, April 15, 2009 beginning at 10:30 a.m.

ADDRESSES: Idaho Counties Risk Management Program Building, 3100 South Vista Avenue, Boise, Idaho.

SUPPLEMENTARY INFORMATION: Agenda topics will include review and approval of project proposals, and is an open public forum.

FOR FURTHER INFORMATION CONTACT: Kimberly Brandel, Designated Federal Official, at (208) 347–0301 or e-mail *kbrandel@fs.fed.us*.

Dated: March 30, 2009.

Suzanne C. Rainville,

Forest Supervisor, Payette National Forest.

[FR Doc. E9–7601 Filed 4–6–09; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Newspapers Used for Publication of Notice, Comment, and Appeal Procedures on Proposed Actions and Legal Notice of the Objection Process for Proposed Authorized Hazardous Fuel Reduction Projects in the Pacific Northwest Region; Oregon and Washington

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice updates the list of newspapers that will be used by all Ranger Districts, Forests and the Regional Office of the Pacific Northwest Region to publish legal notices for public comment and decisions subject to appeal under 36 CFR 215, predecisional objections and appeals of decisions under 36 CFR 219, and predecisional administrative reviews under 36 CFR 218. The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notices for decisions and public comment; thereby allowing the public to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering appeals and objection processes.

DATES: Publication of legal notices in the listed newspapers will begin with decisions subject to appeal that are made on or after April 1, 2009. This list of newspapers will remain in effect until another notice is published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Jill A. Dufour, Regional Environmental Coordinator, Pacific Northwest Region, 333 SW. First Avenue, (P.O. Box 3623), Portland, Oregon 97208, phone: 503–808–2276.

The newspapers to be used are as follows:

Pacific Northwest Regional Office

Regional Forester decisions on Oregon National Forests
- The Oregonian, Portland, Oregon

Regional Forester decisions on Washington National Forests
- The Seattle Times, Seattle, Washington

Columbia River Gorge National Scenic Area Manager decisions
- The Oregonian, Portland, Oregon

Oregon National Forests

Deschutes National Forest
- Forest Supervisor decisions
- Bend/Fort Rock District Ranger decisions
- Crescent District Ranger decisions
- Redmond Air Center Manager decisions
- Sisters District Ranger decisions
- The Bulletin, Bend, Oregon

Fremont-Winema National Forests
- Forest Supervisor decisions
- Bly District Ranger decisions
- Lakeview District Ranger decisions
- Paisley District Ranger decisions
- Silver Lake District Ranger decisions
- Chemult District Ranger decisions
- Chiloquin District Ranger decisions
- Kiamath District Ranger decisions
- Herald and News, Kiamath Falls, Oregon

Maiheur National Forest
- Forest Supervisor decisions
- Blue Mountain District Ranger decisions
- Prairie City District Ranger decisions
- Blue Mountain Eagle, John Day, Oregon
- Emigrant Creek District Ranger decisions
- Burns Times Herald, Burns, Oregon

Mt. Hood National Forest
- Forest Supervisor decisions
- Clackamas River District Ranger decisions
- Zigzag District Ranger decisions
- Hood River District Ranger decisions
- Barlow District Ranger decisions
- The Oregonian, Portland, Oregon

Ochoco National Forest
- Forest Supervisor decisions
- Crooked River National Grassland Area Manager decisions
- Lookout Mountain District Ranger decisions
- Paulina District Ranger decisions
- The Bulletin, Bend, Oregon

Rogue River-Siskiyou National Forests
- Forest Supervisor decisions
- High Cascades District Ranger

decisions
J. Herbert Stone Nursery Manager decisions
Siskiyou Mountains District Ranger decisions
Mail Tribune, Medford, Oregon
Wild Rivers District Ranger decisions
Grants Pass Daily Courier, Grants Pass, Oregon
Gold Beach District Ranger decisions
Curiy County Reporter, Gold Beach, Oregon
Powers District Ranger decisions
The World, Coos Bay, Oregon
Siuslaw National Forest
Forest Supervisor decisions
Corvallis Gazette-Times, Corvallis, Oregon
Central Coast Ranger District—Oregon Dunes National Recreation Area District Ranger decisions
The Register-Guard, Eugene, Oregon
Hebo District Ranger decisions
Tillamook Headlight Herald, Tillamook, Oregon
Umatilla National Forest
Forest Supervisor decisions
North Fork John Day District Ranger decisions
Heppner District Ranger decisions
Pomeroy District Ranger decisions
Walla Walla District Ranger decisions
East Oregonian, Pendleton, Oregon
Umpqua National Forest
Forest Supervisor decisions
Cottage Grove District Ranger decisions
Diamond Lake District Ranger decisions
North Umpqua District Ranger decisions
Tiller District Ranger decisions
Dorena Genetic Resource Center Manager decisions
The News-Review, Roseburg, Oregon
Wallowa-Whitman National Forest
Forest Supervisor decisions
Whitman District Ranger decisions
Baker City Herald, Baker City, Oregon
La Grande District Ranger decisions
The Observer, La Grande, Oregon
Hells Canyon National Recreation Area Manager decisions
Eagle Cap District Ranger decisions
Wallowa Valley District Ranger decisions
Wallowa County Chieftain, Enterprise, Oregon
Willamette National Forest
Forest Supervisor decisions
Middle Fork District Ranger decisions
McKenzie River District Ranger decisions
Sweet Home District Ranger decisions
The Register-Guard, Eugene, Oregon
Detroit District Ranger decisions
Statesman Journal, Salem, OR

Washington National Forests

Colville National Forest
Forest Supervisor decisions
Three Rivers District Ranger decisions
Statesman-Examiner, Colville, Washington
Sullivan Lake District Ranger decisions
Newport District Ranger decisions
The Newport Miner, Newport, Washington
Republic District Ranger decisions
Republic News Miner, Republic, Washington
Gifford Pinchot National Forest
Forest Supervisor decisions
Mount Adams District Ranger decisions
Mount St. Helens National Volcanic Monument Manager decisions
The Columbian, Vancouver, Washington
Cowlitz Valley District Ranger decisions
The Chronicle, Chehalis, Washington
Mt. Baker-Snoqualmie National Forest
Forest Supervisor decisions
Everett Herald, Everett, Washington
Darrington District Ranger decisions
Skykomish District Ranger decisions
Everett Herald, Everett, Washington
Mt. Baker District Ranger decisions
Skagit Valley Herald, Mt. Vernon, Washington
Snoqualmie District Ranger decisions (north half of district)
Snoqualmie Valley Record, North Bend, Washington
Snoqualmie District Ranger decisions (south half of district)
Enumclaw Courier Herald, Enumclaw, Washington
Okanogan-Wenatchee National Forests
Forest Supervisor decisions
Chelan District Ranger decisions
Entiat District Ranger decisions
Tonasket District Ranger decisions
Naches District Ranger decisions
Wenatchee River District Ranger decisions
The Wenatchee World, Wenatchee, Washington
Methow Valley District Ranger decisions
Methow Valley News, Twisp, Washington
Cle Elum District Ranger decisions
Ellensburg Daily Record, Ellensburg, Washington
Olympic National Forest
Forest Supervisor decisions
The Olympian, Olympia, Washington
Hood Canal District Ranger decisions
Peninsula Daily News, Port Angeles, Washington
Pacific District Ranger decisions (south portion of district)
The Daily World, Aberdeen, Washington
Pacific District Ranger decisions (north portion of district)
Peninsula Daily News, Port Angeles, Washington

Calvin N. Joyner,

Deputy Regional Forester.

[FR Doc. E9–7580 Filed 4–6–09; 8:45 am]

BILLING CODE 3410–11–M

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Sunshine Act Meeting

In connection with its investigation into an explosion and fire that occurred at the Bayer CropScience facility in Institute, West Virginia, on August 28, 2008, the U.S. Chemical Safety Board (CSB) announces that it will hold a public meeting on April 23, 2009, in Institute, West Virginia, to present preliminary findings from its investigation of the explosion that fatally injured two workers.

The meeting will begin at 6:30 p.m. at the West Virginia State University Wilson Building, Multipurpose Room, 103 University Union, Institute, WV 25112. The meeting is free and open to the public. Pre-registration is not required, but to assure adequate seating, attendees are encouraged to pre-register by e-mailing their names and affiliations to *bayer@csb.gov* by April 10.

At the meeting, the CSB investigative team will present its preliminary findings on the circumstances of the accident to the CSB Board and the public. The Board will ask questions of the team in front of the audience. Following the presentation of the CSB's preliminary findings, a panel of outside witnesses will be invited to speak on a number of issues related to the accident.

At the end of the panel discussion, comments from members of the public will be heard. The meeting will be videotaped, and an official transcript will be included in the investigative file.

All staff presentations are preliminary and are solely intended to allow the Board to consider the issues and factors involved in this case in a public forum. No factual analyses, conclusions, or findings of the staff should be considered final. Only after the Board has considered and approved the staff final report will there be an approved final record of this incident.

Christopher W. Warner,

General Counsel.

[FR Doc. E9–8034 Filed 4–3–09; 4:15 pm]

BILLING CODE

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the District of Columbia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights and the Federal Advisory Committee Act, that a planning meeting of the District of Columbia Advisory Committee will convene at 12 p.m. on Thursday, April 23, 2009, at the Heritage Foundation, 214 Massachusetts Avenue, NE., Washington, DC 20002. The purpose of the planning meeting is for the Committee to discuss the draft subcommittee report and plan future activities.

Members of the public are entitled to submit written comments. The address is U.S. Commission on Civil Rights, Eastern Regional Office, 624 Ninth Street NW., Suite 740, Washington, DC 20425. Persons wishing to email their comments, present their comments at the meeting, or who desire additional information should contact Alfreda Greene, Secretary, at 202–376–7533 or by e-mail to: *ero@usccr.gov*.

Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

Records generated from this meeting may be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *http://www.usccr.gov*, or to contact the Eastern Regional Office at the above e-mail or street address.

The meeting will be conducted pursuant to the rules and regulations of the Commission and FACA.

Dated in Washington, DC, April 2, 2009.

Christopher Byrnes,

Chief, Regional Programs Coordination Unit.

[FR Doc. E9–7819 Filed 4–6–09; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

Proposed Information Collection; Comment Request; Quarterly Survey of Insurance Transactions by U.S. Insurance Companies With Foreign Persons

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 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 5 p.m. June 8, 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: Direct requests for additional information or copies of the survey and instructions to Christopher Emond, Chief, Special Surveys Branch, Balance of Payments Division, (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone: (202) 606–9826; fax: (202) 606–5318; or via the Internet at *christopher.emond@bea.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

Form BE–45, Quarterly Survey of Insurance Transactions by U.S. Insurance Companies with Foreign Persons, obtains quarterly data from U.S. insurance companies that have engaged in reinsurance transactions with foreign persons, that have earned premiums from, or incurred losses to, foreign persons in the capacity of primary insurers, or that have engaged in international sale or purchase transactions in auxiliary insurance services greater than $8 million (positive or negative) for the prior calendar year or that are expected to be greater than $8 million (positive or negative) in the current calendar year. The data collected are cut-off sample data. In addition, estimates are developed based upon previously reported or estimated data for non-respondents, including those U.S. insurance companies that fall below the reporting threshold for the survey.

The data are needed to monitor U.S. international trade in insurance services, analyze its impact on the U.S. and foreign economies, compile and improve the U.S. economic accounts, support U.S. commercial policy on insurance services, conduct trade promotion, and improve the ability of U.S. businesses to identify and evaluate market opportunities.

Responses will be due within 60 days after the close of each calendar quarter, except for the final quarter of the calendar year, when reports are due within 90 days after the close of the quarter. The data from the survey are primarily intended as general purpose statistics. They are needed to answer any number of research and policy questions related to cross-border trade in services.

The form remains the same as in the past. No changes in the data collected or in exemption levels are proposed.

II. Method of Collection

The surveys are sent to the respondents by U.S. mail; the surveys are also available from our Web site. Respondents return the surveys one of four ways: U.S. mail, electronically using BEA's electronic collection system (eFile), fax or e-mail.

III. Data

OMB Control Number: 0608–0066.

Form Number: BE–45.

Type of Review: Regular submission.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 1,200.

Estimated Time per Response: 8 hours.

Estimated Total Annual Burden Hours: 9,600.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Mandatory.

Legal Authority: The International Investment and Trade in Services Survey Act, 22 U.S.C. 3101–3108, as amended.

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 will 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: April 2, 2009.

Glenna Mickelson,

Management Analyst, Office of Chief Information Officer.

[FR Doc. E9–7835 Filed 4–6–09; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–851

Certain Preserved Mushrooms from the People's Republic of China: Notice of Initiation of Antidumping Duty New Shipper Review

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

SUMMARY: The Department of Commerce (the Department) has received a request for a new shipper review of the antidumping duty order on certain preserved mushrooms from the People's Republic of China (PRC). *See Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Preserved Mushrooms From the People's Republic of China*, 64 FR 8308 (February 19, 1999). In accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Tariff Act), and 19 CFR 351.214(d) (2008), we are initiating an antidumping duty new shipper review of Linyi City Kangfa Foodstuff Drinkable Co., Ltd. The period of review (POR) of this new shipper review is February 1, 2008, through January 31, 2009.

EFFECTIVE DATE: April 7, 2009.

FOR FURTHER INFORMATION CONTACT: Fred Baker or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–2924 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 19, 1999, the Department published the antidumping duty order on certain preserved mushrooms from the PRC. *See Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Preserved Mushrooms From the People's Republic of China*, 64 FR 8308 (February 19, 1999). Thus, the antidumping duty order on certain preserved mushrooms has a February anniversary month. On February 26, 2009, the Department received a request for a new shipper review from Linyi City Kangfa Foodstuff Drinkable Co., Ltd., as exporter, and from its affiliate Linyi City Kangfa Foodstuff Drinkable Co., Ltd., Pingyi Branch, as producer (collectively ''Kangfa''). The Department determined that the request contained certain deficiencies and requested that Kangfa correct the submission. *See* March 12, 2009, and March 20, 2009, letters from Robert James, Program Manager, to Kangfa. In accordance with the Department's requests, Kangfa corrected the problems in its initial submission dated February 26, 2009, with its complete March 26, 2009, submission. For the purposes of initiating this new shipper review, the Department determines that Kangfa's February 26, 2009, submission was timely filed.

Pursuant to the requirements set forth in section 751(a)(2)(B)(i) of the Tariff Act and 19 CFR 351.214(b)(2), Kangfa certified that (1) it did not export subject merchandise to the United States during the period of investigation (POI) (*see* section 751(a)(2)(B)(i)(I) of the Tariff Act and 19 CFR 351.214(b)(2)(ii)(A)); (2) since the initiation of the investigation it has never been affiliated with any company that exported subject merchandise to the United States during the POI (*see* section 751(a)(2)(B)(i)(II) and19 CFR 351.214(b)(2)(iii)(A)); and (3) its export activities were not controlled by the central government of the PRC (*see* 19 CFR 351.214(b)(2)(iii)(B)). In accordance with 19 CFR 351.214(b)(2)(iv), Kangfa submitted documentation establishing the following: (1) the date on which it first shipped subject merchandise to the United States; (2) the volume of its first shipment; and (3) the date of its first sale to an unaffiliated customer in the United States. Kangfa also certified it had no shipments to the United States during the period subsequent to its first shipment.

The Department conducted a Customs database query in an attempt to confirm that Kangfa's shipments of subject merchandise entered the United States for consumption, and that liquidation of such entries had been suspended for antidumping duties. *See* March 31, 2009, Kangfa New Shipper Review Initiation Checklist, question 15. The Department also examined whether U.S. Customs and Border Protection (CBP) confirmed that such entries were made during the new shipper review POR. The information we examined was consistent with that provided by Kangfa.

Initiation of Review

Based on information on the record and in accordance with section 751(a)(2)(B) of the Tariff Act and section 351.214(d) of the Department's regulations, we find that the request Kangfa submitted meets the statutory and regulatory requirements for initiation of a new shipper review. Accordingly, we are initiating a new shipper review of the antidumping duty order on certain preserved mushrooms from the People's Republic of China manufactured and exported by Kangfa. This review covers the period February 1, 2008 through January 31, 2009. We intend to issue the preliminary results of this review no later than 180 days after the date on which this review is initiated, and the final results within 90 days after the date on which we issue the preliminary results. *See* section 751(a)(2)(B)(iv) of the Tariff Act and 19 CFR 351.214(h)(i).

In cases involving non–market economies, the Department requires that a company seeking to establish eligibility for an antidumping duty rate separate from the country–wide rate provide evidence of *de jure* and *de facto* absence of government control over the company's export activities. *See Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 19026, 19027 (April 30, 1996). Accordingly, we will issue a questionnaire to Kangfa that will include a separate rates section. This review will proceed if the response provides sufficient indication that Kangfa is not subject to either *de jure* or *de facto* government control with respect to its exports of preserved mushrooms. However, if Kangfa does not demonstrate eligibility for a separate rate it will be deemed not separate from other companies that exported during the POR, and the new shipper review will be rescinded.

On August 17, 2006, the Pension Protection Act of 2006 (H.R. 4) was signed into law. Section 1632 of H.R. 4 temporarily suspends the authority of the Department to instruct CBP to collect a bond or other security in lieu of a cash deposit in new shipper reviews. Therefore, the posting of a bond under section 751(a)(2)(B)(iii) of the Tariff Act in lieu of a cash deposit is not available in this case. Importers of certain preserved mushrooms manufactured and exported by Kangfa must continue to pay a cash deposit of estimated antidumping duties on each entry of subject merchandise (*i.e.*, certain preserved mushrooms) at the current PRC–wide rate of 198.63 percent.

Interested parties may submit applications for disclosure under administrative protective order in

accordance with 19 CFR 351.305 and 351.306.

This initiation and this notice are issued and published in accordance with section 751(a)(2)(B) of the Tariff Act and sections 351.214 and 351.221(c)(1)(i) of the Department's regulations.

Dated: March 31, 2009.

Gary Taverman,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–7864 Filed 4–6–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–838, A–533–840, A–549–822]

Certain Frozen Warmwater Shrimp From Brazil, India and Thailand: Notice of Initiation of Administrative Reviews

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

SUMMARY: The Department of Commerce (Department) received timely requests to conduct administrative reviews of the antidumping duty orders on certain frozen warmwater shrimp (shrimp) from Brazil, India and Thailand. The anniversary month of these orders is February. In accordance with 19 CFR 351.221, we are initiating these administrative reviews.

DATES: *Effective Date:* April 7, 2009.

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor at (202) 482–4007 (Brazil), Elizabeth Eastwood at (202) 482–3874 (India), and Kate Johnson at (202) 482–4929 (Thailand), AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Background

The Department received timely requests from the petitioner,[1] the American Shrimp Processors Association, and the Louisiana Shrimp Association, and certain individual companies, in accordance with 19 CFR 351.213(b), during the anniversary month of February 2009, for administrative reviews of the antidumping duty orders on shrimp from Brazil, India, and Thailand. The Department is now initiating administrative reviews of these orders covering 43 companies for Brazil, 332 companies for India, and 185 companies for Thailand, as noted in the ''Initiation of Reviews'' section of this notice.

In accordance with the Department's recent statement in its notice of opportunity to request administrative reviews, we have not initiated administrative reviews with respect to those companies which the Department was unable to locate in prior segments and for which no new information as to the party's location was provided by the requestor (*see Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 74 FR 6013 (Feb. 4, 2009)). We have also not initiated administrative reviews with respect to those companies we previously determined to be duplicates or no longer exist. *See* ''Initiation of Reviews,'' ''Incomplete Requests for Review,'' and ''Requests for Review of Non-Existent Companies'' sections of this notice for country-specific lists of the companies for which we did not initiate an administrative review.

Initiation of Reviews

In accordance with section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), we are initiating administrative reviews of the antidumping duty orders on shrimp from Brazil, India and Thailand. We intend to issue the final results of these reviews by February 28, 2010.

	Period to be reviewed
Antidumping Duty Proceeding	
Brazil	
Certain Frozen Warmwater Shrimp, A–351–838	2/1/08–1/31/09
Acarau Pesca Distr. de Pescado Imp. e Exp. Ltda.	
Amazonas Industria Alimenticias SA.	
Aquacultura Fortaleza Aquafort SA.	
Aquática Maricultura do Brasil Ltda./Aquafeed do Brasil Ltda.	
Artico S/A.	
Bramex Brasil Mercantil Ltda.	
Camanor-Produtos Marinhos Ltda.	
Cida Central de Ind. E Distribuicao de Alimentos Ltda.	
Compescal-Comércio de Pescado Aracatiense Ltda.	
Compex Industria E Comercio de Pesca E Exportacao Ltd.	
Dafruta Ind. & Comercio.	
Esperanca Pescados.	
Intermarin Servicios Nauticos.	
Ipesca.	
ITA Fish-S.W.F. Importacao e Exportacao Ltda.[2]	
ITA Fish Transp. Comercio Pesca.	
J K Pesca Ltda.	
Leardini Pescados Ltda.	
Lusomar Maricultura Ltda.	
Maricultura Rio Grandense.	
Maricultura Tropical.	
Marine Maricultura do Nordeste SA.	
MM Monteiro Pesca E Exportacao Ltda.	
Mucuripe Pesca Ltda., Epp.	
Natal Pesca.	
Netuno Alimentos SA/Maricultura Netuno SA.[1]	
Norte Pesca SA.	

[1] The petitioner is the Ad Hoc Shrimp Trade Action Committee.

	Period to be reviewed
Orion Pesca Ltda.	
Pesqueira Maguary Ltda.	
Potiguar Alimentos do Mar Ltda.	
Potipora Aquacultura Ltda.	
Qualimar Comercio Importaçao E Exportacao Ltda.	
Santa Lavinia Comercio e Exportacio Ltda.	
Seafarm Criacao E Comercio de Produtos Aquaticos Ltda.	
Secom Aquicultura Comercio E Industria SA.	
Silva Embarcacao.	
SM Pescados Indústria Comércio E Exportação Ltda.	
Sohagro Marina do Nordeste SA.	
Tecmares Maricultura Ltda.	
Terracor Tdg. Exp. E Imp. Ltda.	
Torquato Pontes Pescados SA.	
Tropical Pesca Ltda.	
Valenca da Bahia Maricultura SA.	
India	
Certain Frozen Warmwater Shrimp, A–533–840	2/1/08–1/31/09
A. S. Marine Industries Pvt. Ltd.	
Abad Fisheries.	
Accelerated Freeze-Drying Co.	
Adani Exports Ltd.	
Aditya Udyog.	
Agri Marine Exports Ltd.	
AL Mustafa Exp & Imp.	
Alapatt Marine Exports.	
All Seas Marine P. Ltd.	
Allanna Frozen Foods Pvt. Ltd.	
Allansons Ltd.	
Alsa Marine & Harvests Ltd.	
Ameena Enterprises.	
AMI Enterprises.	
Amison Foods Ltd.	
Amison Seafoods Ltd.	
Amulya Sea Foods.	
Anand Aqua Exports.	
Ananda Aqua Exports (P) Limited.[3]	
Ananda Foods.[3]	
Andaman Seafoods Pvt. Ltd.	
Angelique Intl.	
Anjaneya Seafoods.	
Anjani Marine Traders.	
Apex Exports.[4]	
Aqua Star Marine Foods.	
Arsha Seafood Exports Pvt. Ltd.	
ASF Seafoods.	
Ashwini Frozen Foods.	
Asvini Exports.	
Asvini Fisheries Private Limited.	
Aswin Associates.	
Avanti Feeds Limited.	
Ayshwarya Seafood Private Limited.	
Baby Marine (Eastern) Exports.	
Baby Marine Exports.	
Baby Marine International.	
Baby Marine Products.	
Baby Marine Sarass.	
Balaji Seafood Exports I Ltd.	
Baraka Overseas Traders.	
Bell Foods (Marine Division).	
Bharat Seafoods.	
Bhatsons Aquatic Products.	
Bhavani Seafoods.	
Bhisti Exports.	
Bijaya Marine Products.	
Bilal Fish Suppliers.	
Blue Water Foods & Exports P. Ltd.	
Bluefin Enterprises.	
Bluepark Seafoods Pvt. Ltd.	
BMR Exports.	
Britto Exports.	
C P Aquaculture (India) Ltd.	
Calcutta Seafoods.[5]	

	Period to be reviewed
Calcutta Seafoods Pvt. Ltd.[5]	
Capital Freezing Complex.	
Capithan Exporting Co.	
Castlerock Fisheries Ltd.	
Cham Exports Ltd.	
Cham Ocean Treasures Co., Ltd.	
Cham Trading Organization.	
Chand International.	
Chemmeens (Regd).	
Cherukattu Industries (Marine Div.).	
Choice Canning Company.	
Choice Trading Corporation Private Limited.[4]	
Coastal Corporation Ltd.	
Cochin Frozen Food Exports Pvt. Ltd.	
Coreline Exports.	
Corlim Marine Exports Pvt. Ltd.	
Danda Fisheries.	
Dariapur Aquatic Pvt. Ltd.	
Deepmala Marine Exports.	
Devi Fisheries Limited.[5]	
Devi Marine Food Exports Private Ltd.[6]	
Devi Sea Foods Limited.	
Dhanamjaya Impex P. Ltd.	
Diamond Seafood Exports.[7]	
Digha Seafood Exports.	
Dorothy Foods.	
Edhayam Frozen Foods Pvt. Ltd.[7]	
El-Te Marine Products.	
Esmario Export Enterprises.	
Excel Ice Services/Chirag Int'l.	
Exporter Coreline Exports.	
Falcon Marine Exports Limited.[4 8]	
Firoz & Company.	
Five Star Marine Exports Private Limited.	
Forstar Frozen Foods Pvt. Ltd.	
Freeze Engineering Industries (Pvt. Ltd.)	
Frigerio Conserva Allana Limited.	
Frontline Exports Pvt. Ltd.	
G A Randerian Ltd.	
G.K S Business Associates Pvt. Ltd.	
Gadre Marine Exports.	
Gajula Exim P. Ltd.	
Galaxy Maritech Exports P. Ltd.	
Gausia Cold Storage P. Ltd.	
Gayatri Seafoods.	
Geo Aquatic Products (P) Ltd.	
Geo Seafoods.	
Global Sea Foods & Hotel Ltd.	
Goan Bounty.	
Gold Farm Foods (P) Ltd.	
Golden Star Cold Storage.	
Goodwill Enterprises.	
Gopal Seafoods.	
Grandtrust Overseas (P) Ltd.	
Gtc Global Ltd.	
GVR Exports Pvt. Ltd.	
HA & R Enterprises.	
Hanswati Exports P. Ltd.	
Haripriya Marine Export Pvt. Ltd.	
HIC ABF Special Foods Pvt. Ltd.	
Hindustan Lever, Ltd.	
Hiravata Ice & Cold Storage.	
Hiravati Exports Pvt. Ltd.	
Hiravati International Pvt. Ltd. (located at Jawar Naka, Porbandar, Gujarat, 360 575, India).	
HMG Industries Ltd.	
Honest Frozen Food Company.	
IFB Agro Industries Ltd.[4]	
India CMS Adani Exports.	
India Seafoods.	
Indian Aquatic Products.	
Indian Seafood Corporation.	
Indo Aquatics.	
Innovative Foods Limited.	

	Period to be reviewed
Interfish.	
International Freezefish Exports.	
InterSea Exports Corporation.	
Interseas.	
ITC Limited, International Business.	
ITC Ltd.	
J R K Seafoods Pvt. Ltd.	
Jagadeesh Marine Exports.	
Jaya Satya Marine Exports.[5]	
Jaya Satya Marine Exports Pvt. Ltd.[5]	
Jayalakshmi Sea Foods Private Limited.	
Jinny Marine Traders.	
Jiya Packagings.	
K R M Marine Exports Ltd.	
K V Marine Exports.[4]	
K.R. Enterprises.[8]	
Kadalkanny Frozen Foods.[4 7]	
Kader Exports Private Limited.[6]	
Kader Investment and Trading Company Private Limited.[6]	
Kalyanee Marine.	
Kanch Ghar.	
Kaushalya Aqua Marine Product Exports Pvt. Ltd.	
Kay Kay Exports.	
Keshodwala Foods.	
Key Foods.	
King Fish Industries.	
Kings Marine Products.[4]	
Koluthara Exports Ltd.	
Konark Aquatics & Exports Pvt. Ltd.	
Konkan Fisheries Pvt. Ltd.	
L.G Seafoods.	
Lakshmi Marine Products.	
Lansea Foods Pvt. Ltd.	
Laxmi Narayan Exports.	
Lewis Natural Foods Ltd.	
Liberty Frozen Foods Pvt. Ltd.[6]	
Liberty Oil Mills Ltd.[4 6]	
Libran Cold Storages (P) Ltd.	
Lotus Sea Farms.	
Lourde Exports.	
M K Exports.	
M. R. H. Trading Company.	
Magnum Estate Private Limited.	
Magnum Export.	
Magnum Sea Foods Pvt. Ltd.	
Malabar Arabian Fisheries.	
Malabar Marine Exports.	
Malnad Exports Pvt. Ltd.	
Mamta Cold Storage.	
Mangala Marine Exim India Pvt. Ltd.	
Mangala Sea Products.	
Marina Marine Exports.	
Marine Food Packers.	
Meenaxi Fisheries Pvt. Ltd.	
Miki Exports International.	
MSC Marine Exporters.	
MTR Foods.	
Mumbai Kamgar MGSM Ltd.	
N.C. Das & Company.	
Naga Hanuman Fish Packers.	
Naik Frozen Foods.	
Naik Ice & Cold Storage.	
Naik Seafoods Ltd.	
Nas Fisheries Pvt Ltd.	
National Seafoods Company.	
National Steel.	
National Steel & Agro Ind.	
Navayuga Exports.[4 5]	
Navayuga Exports Ltd.[5]	
Nekkanti Sea Foods Limited.	
New Royal Frozen Foods.	
NGR Aqua International.	
Nila Sea Foods Pvt. Ltd.	

	Period to be reviewed
Noble Aqua Pvt. Ltd.	
Nsil Exports.	
Omsons Marines Ltd.	
Overseas Marine Export.	
Padmaja Exports.	
Paragon Sea Foods Pvt. Ltd.	
Partytime Ice Pvt Ltd.	
Penver Products (P) Ltd.	
Philips Foods India Pvt Ltd.	
Pijikay International Exports P Ltd.	
Pisces Seafood International.	
Premier Exports International.	
Premier Marine Foods.	
Premier Marine Products.[5 6]	
Premier Seafoods Exim (P) Ltd.	
R K Ice & Cold Storage.	
R V R Marine Products Private Limited.[4]	
R.F. Exports.	
Raa Systems Pvt. Ltd.	
Rahul Foods (GOA).	
Rahul International.	
Raj International.	
Raju Exports.	
Ramalmgeswara Proteins & Foods Ltd.	
Rameshwar Cold Storage.	
Ram's Assorted Cold Storage Ltd.[5]	
Raunaq Ice & Cold Storage.	
Ravi Frozen Foods Ltd.	
Raysons Aquatics Pvt. Ltd.	
Razban Seafoods Ltd.	
RBT Exports.	
Regent Marine Industries.	
Relish Foods.	
Riviera Exports Pvt. Ltd.	
Rohi Marine Private Ltd.	
Royal Link Exports.	
Rubian Exports.	
Ruby Marine Foods.	
Ruchi Worldwide.	
S & S Seafoods.	
S A Exports.	
S Chanchala Combines.	
S K Exports (P) Ltd.	
S S International.	
Sabri Food Products.	
Safa Enterprises.	
Sagar Foods.	
Sagar Grandhi Exports Pvt. Ltd.	
Sagar Samrat Seafoods.	
Sagarvihar Fisheries Pvt. Ltd.	
Sai Marine Exports Pvt. Ltd.[4]	
Sai Sea Foods.	
Salet Seafoods Pvt Ltd.	
Samrat Middle East Exports (P) Ltd.	
Sanchita Marine Products P Ltd.	
Sandhya Aqua Exports.[5]	
Sandhya Aqua Exports Pvt. Ltd.[5]	
Sandhya Marines Limited.	
Santhi Fisheries & Exports Ltd.	
Sarveshwari Ice & Cold Storage P Ltd.	
Satya Seafoods Private Limited.[5]	
Satyam Marine Exports.	
Sawant Food Products.	
Sea Rose Marines (P) Ltd.	
Seagold Overseas Pvt. Ltd.	
Sealand Fisheries Ltd.	
Seaperl Industries.	
Selvam Exports Private Limited.[4]	
Sharat Industries Ltd.	
Shimpo Exports.	
Shipper Exporter National Steel.	
Shippers Exports.	
Shroff Processed Food & Cold ZStorage P Ltd.	

	Period to be reviewed
Siddiq Seafoods.	
Silver Seafood.	
Sita Marine Exports.	
Skyfish.	
SLS Exports Pvt. Ltd.	
Sonia Fisheries.	
Sourab.	
Sprint Exports Pvt. Ltd.[4]	
Sreevas Export Enterprises.	
Sri Chandrakantha Marine Exports.[4]	
Sri Sakkthi Cold Storage.	
Sri Sakthi Marine Products P Ltd.	
Sri Satya Marine Exports.	
Sri Sidhi Freezers & Exporters Pvt. Ltd.	
Sri Venkata Padmavathi Marine Foods Pvt. Ltd.	
SSF Ltd.	
Star Agro Marine Exports Private Limited.	
Star Fish Exports.	
Sterling Foods.	
Sun-Bio Technology Ltd.	
Supreme Exports.	
Suryamitra Exim (P) Ltd.	
Suvarna Rekha Exports Private Limited.	
Suvarna Rekha Marines P Ltd.	
TBR Exports Pvt Ltd.	
Teekay Maine P. Ltd.	
Tejaswani Enterprises.	
The Canning Industries (Cochin) Ltd.	
The Waterbase Ltd.	
Theva & Company.[7]	
Tony Harris Seafoods Ltd.	
Tri Marine Foods Pvt. Ltd.	
Trinity Exports.	
Tri-Tee Seafood Company.	
Triveni Fisheries P Ltd.	
Ulka Seafoods (P) Ltd.	
Uniroyal Marine Exports Ltd.	
Universal Cold Storage Private Limited.[4 6]	
Upasana Exports.	
Usha Seafoods.[5]	
V Marine Exports.	
V.S Exim Pvt Ltd.	
Vaibhav Sea Foods.	
Varnita Cold Storage.	
Veejay Impex.	
Veraval Marines & Chemicals P Ltd.	
Victoria Marine & Agro Exports Ltd.	
Vijayalaxmi Seafoods.	
Vinner Marine.	
Vishal Exports.	
Wellcome Fisheries Limited.	
Winner Seafoods.	
Z A. Food Products.	

[1] In the 2006–2007 administrative review, we determined that Netuno Alimentos S.A. and Maricultura Netuno should be treated as a single entity.*See Certain Frozen Warmwater Shrimp from Brazil: Final Results and Partial Rescission of Antidumping Duty Administrative Review* 73 FR 39940, 39941 (July 11, 2008). Absent information to the contrary, we intend to continue to treat these companies as a single entity for purposes of this administrative review.

[2] We received two review requests for SM Pescados Industria Comercio E Exportacao Ltda, with virtually the same address. Therefore, we are including this company only once for purposes of initiation of this administrative review.

[3] In the 2007–2008 administrative review, the Department preliminarily found that the following companies comprised a single entity: Ananda Aqua Exports (P) Ltd., Ananda Foods, and Ananda Aqua Applications.*See Certain Frozen Warmwater Shrimp From India: Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 9991, 9994 (Mar. 9, 2009) (*2007–2008 Indian Shrimp Preliminary Results*). If the Department continues to make this finding in the final results of the 2007–2008 administrative review, we will continue to treat these companies as a single entity for purposes of this administrative review, absent information to the contrary.

[4] The interested parties' requests for review included certain companies with similar names and/or addresses. For purposes of initiation, we have treated these companies as the same entity based on information obtained in the 2004–2006, 2006–2007, or 2007–2008 administrative review.*See* the March 31, 2009, memorandum from Holly Phelps to the File entitled, ''Placing Public Information from the 2004–2006, 2006–2007, and 2007–2008 Antidumping Duty Administrative Reviews on the Record of the 2008–2009 Antidumping Duty Administrative Review on Certain Frozen Warmwater Shrimp from India.''*See also Certain Frozen Warmwater Shrimp From India; Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 41419, 41420 (July 21, 2006).

[5] We have received multiple review requests for companies with the same or nearly same name but different addresses. For purposes of initiation, we have treated these companies as separate entities.

[6] In the 2004–2006 administrative review, the Department found that the following companies comprised a single entity: Devi Marine Food Exports Private Limited, Kader Investment and Trading Company Private Limited, Kader Exports Private Limited, Liberty Frozen Foods Private Limited, Liberty Oil Mills Limited, Premier Marine Products, and Universal Cold Storage Private Limited. *See Certain Frozen Warmwater Shrimp from India: Final Results and Partial Rescission of Antidumping Duty Administrative Review,* 72 FR 52055, 52058 (Sept. 12, 2007). Absent information to the contrary, we intend to continue to treat these companies as a single entity for purposes of this administrative review.

[7] In the 2006–2007 administrative review, the Department found that the following companies comprised a single entity: Diamond Seafoods Exports, Edhayam Frozen Foods Pvt. Ltd., Kadalkanny Frozen Foods, and Theva & Company. *See Certain Frozen Warmwater Shrimp from India: Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review,* 73 FR 12103, 12106 (Mar. 6, 2008), unchanged in *Certain Frozen Warmwater Shrimp From India: Final Results and Partial Rescission of Antidumping Duty Administrative Review,* 73 FR 40492 (July 15, 2008) (*2006–2007 Indian Shrimp Final Results*). Absent information to the contrary, we intend to continue to treat these companies as a single entity for purposes of this administrative review.

[8] In the 2007–2008 administrative review, the Department preliminarily found that the following companies comprised a single entity: Falcon Marine Exports Limited and K.R. Enterprises.*See 2007–2008 Indian Shrimp Preliminary Results,* 74 FR at 9994. If the Department continues to make this finding in the final results of the 2007–2008 administrative review, we will continue to treat these companies as a single entity for purposes of this administrative review, absent information to the contrary.

	Period to be reviewed
Antidumping Duty Proceeding	
Thailand	
Certain Frozen Warmwater Shrimp, A–549–822	2/1/08–1/31/09 [2] [3]
A. Wattanachai Frozen Products Co., Ltd.	
A.S. Intermarine Foods Co., Ltd.	
ACU Transport Co., Ltd.	
American Commercial Transport (Thailand).	
Ampai Frozen Food Co., Ltd.	
Andaman Seafood Co., Ltd.[9]	
Anglo-Siam Seafoods Co., Ltd.	
Apex Maritime (Thailand) Co., Ltd.	
Apitoon Enterprise Industry Co., Ltd.	
Applied DB Ind.	
Asia Pacific (Thailand) Co., Ltd. [11]	
Asian Seafood Coldstorage (Sriracha).	
Asian Seafoods Coldstorage Public Co., Ltd.	
Asian Seafoods Coldstorage (Suratthani) Co., Limited [10]	
Asian Seafoods Coldstorage (Suratthani) Co.[10]	
Assoc. Commercial Systems.	
B.S.A. Food Products Co., Ltd.	
Bangkok Dehydrated Marine Product Co., Ltd.	
Bright Sea Co., Ltd.	
C.P. Merchandising Co., Ltd.	
C P Mdse.	
C P Retailing and Marketing Co., Ltd.	
C Y Frozen Food Co., Ltd.	
Chaivaree Marine Products Co., Ltd.	
Chaiwarut Co., Ltd.	
Chanthaburi Frozen Foods Co., Ltd.[9]	
Chanthaburi Seafoods Co., Ltd.[9] [15]	
Charoen Pokphand Foods Public Co., Ltd.	
Chonburi L C.	
Chue Eie Mong Eak Ltd. Part.	
Core Seafood Processing Co., Ltd.	
Crystal Frozen Foods Co., Ltd. and/or Crystal Seafood.	
Daedong (Thailand) Co. Ltd.	
Daiei Taigen (Thailand) Co., Ltd.	
Daiho (Thailand) Co., Ltd.	
Dynamic Intertransport Co., Ltd.	
Earth Food Manufacturing Co., Ltd.	
Euro-Asian International Seafoods Co., Ltd.	
F.A.I.T. Corporation Limited.	
Far East Cold Storage Co., Ltd.	
Findus (Thailand) Ltd.	
Fortune Frozen Foods (Thailand) Co., Ltd.	
Frozen Marine Products Co., Ltd.	
GSE Lining Technology Co., Ltd.	
Gallant Ocean (Thailand) Co., Ltd.	
Gallant Seafoods Corporation.	
Global Maharaja Co., Ltd.	
Golden Sea Frozen Foods.	
Golden Sea Frozen Foods Co., Ltd.	
Good Fortune Cold Storage Co., Ltd.	
Good Luck Product Co., Ltd.	
Grobest Frozen Foods Co., Ltd.	
Gulf Coast Crab Intl.	
H.A.M. International Co., Ltd.	
Haitai Seafood Co., Ltd.	
Handy International (Thailand) Co., Ltd.	

	Period to be reviewed
Heng Seafood Limited Partnership.	
Heritrade Co., Ltd.	
HIC (Thailand) Co., Ltd.	
High Way International Co., Ltd.	
I.T. Foods Industries Co., Ltd.	
Inter-Oceanic Resources Co., Ltd.	
Inter-Pacific Marine Products Co., Ltd.[15]	
Intersia Foods Co., Ltd.	
K Fresh.	
K. D. Trading Co., Ltd.	
KF Foods.	
K.L. Cold Storage Co., Ltd.	
K & U Enterprise Co., Ltd.	
Kiang Huat Sea Gull Trading Frozen Food Public Co., Ltd.	
Kingfisher Holdings Ltd.	
Kibun Trdg.	
Klang Co., Ltd.	
Kitchens of the Ocean (Thailand) Ltd.	
Kongphop Frozen Foods Co., Ltd.	
Kosamut Frozen Foods Co., Ltd.	
Lee Heng Seafood Co., Ltd.	
Leo Transports.	
Li-Thai Frozen Foods Co., Ltd.	
Lucky Union Foods Co., Ltd.[14]	
Maersk Line.	
MKF Interfood (2004) Co., Ltd.	
Magnate & Syndicate Co., Ltd.	
Mahachai Food Processing Co., Ltd.	
Marine Gold Products Co., Ltd.	
May Ao Co., Ltd.	
May Ao Foods Co., Ltd.	
Merit Asia Foodstuff Co., Ltd.	
Merkur Co., Ltd.	
Ming Chao Ind Thailand.	
N&N Foods Co., Ltd.	
Namprik Maesri Ltd. Part.	
Narong Seafood Co., Ltd.[13]	
Nongmon SMJ Products.	
NR Instant Produce Co., Ltd.[14]	
Okeanos Company Ltd. and/or Okeanos Food Company Limited[11]	
Ongkorn Cold Storage Co., Ltd.	
Pacific Queen Co., Ltd.	
Pakfood Public Company Limited[11]	
Penta Impex Co., Ltd.	
Phatthana Frozen Food Co., Ltd.[9]	
Phatthana Seafood Co., Ltd.[9]	
Pinwood Nineteen Ninety Nine.	
Piti Seafoods Co., Ltd.	
Premier Frozen Products Co., Ltd.	
Preserved Food Specialty Co., Ltd.	
Queen Marine Food Co., Ltd.	
Rayong Coldstorage (1987) Co., Ltd.	
S&D Marine Products Co., Ltd.	
S&P Aquarium.	
S&P Syndicate Public Company Ltd.	
S. Chaivaree Cold Storage Co., Ltd.	
S.C.C. Frozen Seafood Co., Ltd.	
SCT Co., Ltd.	
S. Khonkaen Food Industry Public Co., Ltd.	
and/or S. Khonkaen Food Ind Public.	
SMP Food Product Co., Ltd.	
Samui Foods Company Limited.	
Sea Bonanza Food Co., Ltd.[13]	
SEA NT'L CO., LTD.	
Sea Wealth Frozen Food Co., Ltd.[9]	
Seafoods Enterprise Co., Ltd.	
Seafresh Fisheries.	
Seafresh Industry Public Co., Ltd.	
Search & Serve.	
Shianlin Bangkok Co., Ltd.	
Siam Canadian Foods Co., Ltd.	
Siam Food Supply Co., Ltd.	
Siam Intersea Co., Ltd.	

	Period to be reviewed
Siam Marine Products Co. Ltd.	
Siam Ocean Frozen Foods Co. Ltd.	
Siam Union Frozen Foods.	
Siamchai International Food Co., Ltd.	
Sky Fresh Co., Ltd.	
Smile Heart Foods Co. Ltd.	
Songkla Canning.	
Southport Seafood.	
Star Frozen Foods Co., Ltd.	
STC Foodpak Ltd.	
Suntechthai Intertrading Co., Ltd.	
Surapon Nichirei Foods Co., Ltd.	
Surapon Seafoods Public Co., Ltd.	
Surapon Foods Public Co., Ltd.	
Surapon Seafood.	
Surat Seafoods Co., Ltd.	
Suratthani Marine Products Co., Ltd.	
Suree Interfoods Co., Ltd.	
T.S.F. Seafood Co., Ltd.	
Tanaya International Co., Ltd.	
Tanaya Intl.	
Takzin Samut [11]	
Teppitak Seafood Co., Ltd.	
Tey Seng Cold Storage Co., Ltd.	
Tep Kinsho Foods Co., Ltd.	
Thai-Ger Marine Co., Ltd.	
Thai Agri Foods Public Co., Ltd.	
Thai Excel Foods Co., Ltd.	
Thai I–Mei Frozen Foods Co., Ltd.	
Thai International Seafoods Co., Ltd.[9]	
Thai Mahachai Seafood Products Co., Ltd.	
Thai Ocean Venture Co., Ltd.	
Thai Patana Frozen.	
Thai Prawn Culture Center Co., Ltd.	
Thai Royal Frozen Food Co. Ltd.	
Thai Spring Fish Co., Ltd.	
Thai Union Frozen Products Public Co., Ltd.[12]	
Thai Union Manufacturing Co., Ltd. and/or Thai Union Mfg.	
Thai Union Seafood Co., Ltd.[12]	
Thai World Imports & Exports.	
Thai Yoo Ltd., Part.	
Thailand Fishery Cold Storage Public Co., Ltd.[9] [15]	
The Siam Union Frozen Foods Co., Ltd.	
The Union Frozen Products Co., Ltd.	
Trang Seafood Products Public Co., Ltd.	
Transamut Food Co., Ltd.	
Tung Lieng Trdg.	
United Cold Storage Co., Ltd.	
V Thai Food Product.	
Wales & Co. Universe Ltd.[9]	
Wann Fisheries Co., Ltd.	
Xian-Ning Seafood Co., Ltd.	
Y2K Frozen Foods Co., Ltd.	
Yeenin Frozen Foods Co., Ltd.	
YHS Singapore Pte.	
ZAFCO TRDG.	

[2] The period of review (POR) for Thai-I-Mei Frozen Foods Co., Ltd. is February 1, 2008, through January 15, 2009. *See Implementation of the Findings of the WTO Panel in United States—Antidumping Measure on Shrimp from Thailand: Notice of Determination Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Order on Frozen Warmwater Shrimp from Thailand*, 74 FR 5638, 5639 (January 30, 2009) (*Implementation of the Findings of the WTO Panel*).

[3] The POR for the following companies comprising the Rubicon Group as defined in the less-than-fair-value investigation is February 1, 2008, through January 15, 2009: Andaman Seafood Co., Ltd., Chanthaburi Seafood Co., Ltd., Chanthaburi Frozen Foods Co., Ltd., Intersia Foods Co., Ltd., Phattana Seafood Co., Ltd., S.C.C. Frozen Seafood Co., Ltd., Thai International Seafoods Co., Ltd., Thailand Fishery Cold Storage Public Co., Ltd., and Wales & Co. Universe Ltd. *See Implementation of the Findings of the WTO Panel*, 74 FR at 5639.

[9] In the 2007–2008 administrative review, the Department stated that the following companies comprised a single entity: Andaman Seafood Co., Ltd., Chanthaburi Seafood Co., Ltd., Chanthaburi Frozen Foods Co., Ltd., Phattana Frozen Food Co., Ltd., Phattana Seafood Co., Ltd., Thai International Seafoods Co., Ltd., Thailand Fishery Cold Storage Public Co., Ltd., Sea Wealth Frozen Food Co., Ltd., and Wales & Co. Universe Ltd. *See* Memorandum to James Maeder from Irina Itkin entitled, ''2007–2008 Antidumping Duty Administrative Review on Certain Frozen Warmwater Shrimp from Thailand: Selection of Respondents for Individual Review,'' dated May 27, 2008. Absent information to the contrary, we intend to continue to treat these companies as a single entity for purposes of this administrative review.

[10] The requests for review included certain companies with similar names but different addresses. For purposes of initiation, we have treated these companies as separate entities.

[11] In the 2004–2006 administrative review, the Department found that the following companies comprised a single entity: Pakfood Public Company Limited, Asia Pacific (Thailand) Co., Ltd. and Takzin Samut Company Limited. *See Certain Frozen Warmwater Shrimp from Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 52065 (Sept. 12, 2007). However, the review request for this administrative review was made on behalf of Pakfood Public Company Limited and its subsidiaries Asia Pacific (Thailand) Co., Ltd., Okeanos Company Ltd., and Okeanos Food Company Ltd.

[12] In the 2006–2007 administrative review, the Department found that the following companies comprised a single entity: Thai Union Frozen Products Co., Ltd. and Thai Union Seafood Co., Ltd. *See Certain Frozen Warmwater Shrimp from Thailand: Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 12088 (Mar. 6, 2008) (*Thai Shrimp 06–07 Prelim*), unchanged in *Certain Frozen Warmwater Shrimp from Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 50933 (August 29, 2008) (*Thai Shrimp 06–07 Final*). Absent information to the contrary, we intend to continue to treat these companies as a single entity for purposes of this administrative review.

[13] The requests for review included certain companies with identical/similar names but different addresses. For purposes of initiation, we have treated these companies as the same entity based on information obtained in the 2004–2006 administrative review. *See 2006–2007 Administrative Review Initiation Notice*, 72 FR at 17107.

[14] The requests for review included certain companies with identical names but different addresses. For purposes of initiation, we have treated these companies as separate entities.

[15] The requests for review included certain companies with duplicate names. We have initiated a review on the correct company names (*i.e.*, Chanthaburi Seafoods Co., Ltd., Thailand Fishery Cold Storage Public Co., Ltd., and Inter-Pacific Marine Products Co., Ltd.), but have not initiated a review on the duplicate names (*i.e.*, Chantaburi Seafood Co., Ltd., Fishery Cold Storage Public, and International Pacific Marine Products,) based on information obtained in the 2006–2007 administrative review. *See Certain Frozen Warmwater Shrimp from Thailand; Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 50931, 50932 (Sept. 5, 2007); *Thai Shrimp 06–07 Prelim*, 73 FR at 12090, unchanged in *Thai Shrimp 06–07 Final*.

Incomplete Requests for Review

We have not initiated administrative reviews with respect to the companies listed below which the Department was unable to locate in prior segments and for which no new information as to the party's location was provided by the requestor. *See, e.g., Certain Frozen Warmwater Shrimp from Brazil, Ecuador, India and Thailand: Notice of Initiation of Administrative Review*, 73 FR 18754 (April 7, 2008).

Brazil
  Camexim Captura Mec Exports Imports
India
  Royal Cold Storage India P Ltd.
Thailand
  None.

Requests for Review of Non-Existent Companies

We have not initiated administrative reviews with respect to the companies listed below for India, which the Department determined in prior administrative reviews no longer exist. *See 2006–2007 Indian Shrimp Final Results*, 73 FR at 40493.

India
  Asvini Fisheries Ltd.
  Surya Marine Exports

Notice of No Sales

Under 19 CFR 351.213(d)(3), the Department may rescind a review where there are no exports, sales, or entries of subject merchandise during the POR. If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the POR, it should notify the Department within 30 days of publication of this notice in the **Federal Register**. The Department will consider rescinding the review only if the producer or exporter, as appropriate, submits a properly filed and timely statement certifying that it had no exports, sales, or entries of subject merchandise during the POR. All submissions must be made in accordance with 19 CFR 351.303 and are subject to verification in accordance with section 782(i) of the Act. Six copies of the submission 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. Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy of each request must be served on every party on the Department's service list.

Respondent Selection

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. Where it is not practicable to examine all known producers/exporters of subject merchandise because of the large number of such companies, section 777A(c)(2) of the Act permits the Department to limit its examination to either: (1) a sample of exporters, producers or types of products that is statistically valid based on the information available at the time of selection; or (2) exporters and producers accounting for the largest volume of subject merchandise from the exporting country that can be reasonably examined. Due to the large number of firms requested for these administrative reviews and the resulting administrative burden to review each company for which a request has been made, the Department is exercising its authority to limit the number of respondents selected for review. *See* section 777A(c)(2) of the Act. In selecting the respondents for individual review, the Department intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POR.

We intend to release the CBP data under administrative protective order (APO) to all parties having an APO within five days of publication of this **Federal Register** notice, and to make our decisions regarding respondent selection within 20 days of publication of this notice. The Department invites comments regarding the CBP data and respondent selection within 10 days of publication of this **Federal Register** notice.

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

This initiation and notice are in accordance with section 751(a)(1) of the Act and 19 CFR 351.221(c)(1)(i).

Dated: March 31, 2009.

Gary Taverman,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–7862 Filed 4–6–09; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XO43

Marine Mammals; File No. 881–1724

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

ACTION: Notice; issuance of permit amendment.

SUMMARY: Notice is hereby given that the Alaska SeaLife Center, 301 Railway

Avenue, Seward, AK 99664 [Dr. Ian Dutton, Responsible Party] has been issued an amendment to scientific research Permit No. 881–1724.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907)586–7221; fax (907)586–7249.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Jennifer Skidmore, (301)713–2289.

SUPPLEMENTARY INFORMATION: The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

This minor amendment extends the expiration date of the permit from March 30, 2009 to March 30, 2010, and minor changes to personnel are authorized. The permit authorizes the Permit Holder to import, export, and collect parts from marine mammals taken under existing permits in the country of origin; from legal subsistence hunts; from legal incidental bycatch; and from opportunistic collection of stranded carcasses. The purposes of this research are to study marine mammal population ecology, diet and nutrition, reproductive physiology, toxicology, and health. No takes of live animals are authorized by the permit.

Issuance of this permit, as required by the ESA, was based on a finding that such permit: (1) was applied for in good faith; (2) will not operate to the disadvantage of endangered species; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: April 1, 2009

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E9–7858 Filed 4–6–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 090401622–9623–01; I.D. GF001]

Market Development Cooperator Program (MDCP) 2009

AGENCY: International Trade Administration (ITA), Department of Commerce.

ACTION: Notice of funding availability.

SUMMARY: ITA announces the availability of funding for the FY 2009 Market Development Cooperator Program (MDCP). Through this program, ITA helps to underwrite the start-up costs of foreign market development ventures that industry organizations are often reluctant to undertake without Federal government support. The intent of this program is to support ITA's mission to create economic opportunity for U.S. workers and firms by promoting international trade and investment, strengthening industry competitiveness, and ensuring fair trade.

DATES: *Public Meeting:* The Department will hold a public meeting to discuss MDCP proposal preparation, procedures, and selection process on Wednesday, April 22, 2009. The ninety-minute meeting will begin at 2 p.m. in Room B841B, at the Herbert Clark Hoover Building, 14th and Constitution Avenue, NW., Washington, DC. The Department will not discuss specific proposals at this meeting. Attendance is not required. Interested parties may participate via telephone conference. Dial-in instructions will be posted on the Internet at trade.gov/mdcp. Interested parties can also obtain dial-in instructions from Mrs. Tonya Milstead at 202–482–5093.

Applications: The Department must receive completed applications by 5 p.m. Eastern Daylight Time, Tuesday, June 2, 2009. Late applications will not be accepted. Applicants whose applications have been accepted will be notified via e-mail or fax within ten days of the submission deadline.

ADDRESSES: Application packages will be available at *http://www.grants.gov*. Applicants are strongly encouraged to submit their applications via *http://www.grants.gov*. A hard-copy application kit can be obtained by contacting Mr. Brad Hess, U.S. Department of Commerce, HCHB 3215, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Although grants.gov is the preferred method of submission, hard-copy applications may be submitted to the address noted above.

FOR FURTHER INFORMATION CONTACT: Mr. Brad Hess, Manager, Market Development Cooperator Program, Manufacturing and Services, ITA, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Room 3215, Washington, DC 20230.

SUPPLEMENTARY INFORMATION: Trade associations, State departments of trade, and other non-profit industry organizations are eligible to apply for an MDCP award. These organizations are particularly effective in reaching small- and medium-size enterprises (SMEs). Through MDCP cooperative agreements the Department provides technical and financial assistance that these organizations match. Organizations compete for a limited number of MDCP awards. (The program's eligibility requirements effectively preclude applications from individuals and private companies.) MDCP awards help to underwrite the start-up costs of new ventures that organizations are often reluctant to undertake without Federal government support. MDCP strengthens the competitiveness of U.S. industry by fostering projects that result in increased exports and/or market share for non-agricultural goods and services produced in the United States. As an active partner, ITA will, as appropriate, guide and assist organizations in achieving project objectives. ITA encourages organizations to propose projects that (1) best strengthen their industry through market development; and (2) leverage the partnership between the organization and ITA.

1. Definitions

Several definitions are provided in section VIII of the Federal Funding Opportunity notice (FFO), which is available at *http://www.trade.gov/mdcp*.

2. Examples of Project Activity

Applicants should propose market development activities tailored to strengthen the competitiveness of the relevant U.S. industry. Examples from prior years are set forth below and, in greater detail, at *http://www.trade.gov/mdcp*. These are provided only for illustration. Applicants are not required to propose any of these activities.

a. Promotion of standards that ensure market access for U.S. products;

b. Helping business leaders to leverage free trade agreements to the advantage of U.S. industry;

c. Demonstration of U.S. products abroad;

d. Development of a shared Internet-based distribution system in a target market;

e. Establishment of technical servicing of U.S. products abroad;

f. Joint promotion of U.S. products with foreign partners;

g. Establishment of a trade association office in a target market;

h. Education of foreign users of U.S. technology concerning intellectual property rights;

i. Training foreign staff for after-sale service of U.S. products in target markets;

j. Increasing trust in U.S. products in foreign markets by safeguarding non-U.S. elements of the supply chain with an ingredient testing system;

k. Publication of product brochures and company directories; and

l. Development of product quality standards and designations along with target-market promotion of same.

Electronic Access: For more information on this program and the application requirements, please read the full text of the full funding opportunity announcement at *http://www.grants.gov*. The announcement will also be available by contacting the program officials identified under **FOR FURTHER INFORMATION CONTACT**.

Statutory Authority: MDCP is provided for in 15 U.S.C. 4723. The program strengthens U.S. industry's competitiveness by developing, maintaining, and expanding foreign markets for non-agricultural goods and services produced in the United States.

CFDA: 11.112, Market Development Cooperator Program.

Funding Availability: Approximately $2,000,000 is expected to be available for fiscal year 2009. The total number of awards made will depend on the amounts requested by top-scoring applicants and the availability of funds. No award will exceed $400,000. The Department anticipates awarding five to nine cooperative agreements.

Eligibility: Trade associations, State departments of trade and their regional associations, and non-profit industry organizations, including organizations such as World Trade Centers, centers for international trade development, and small business development centers are eligible to apply for an MDCP award. In cases where no entity described above represents the industry, private industry firms or groups of firms may be eligible to apply for an MDCP award. Such private industry firms or groups of firms must provide in their applications, documentation demonstrating that no entity in the first three categories listed below represents their industry.

1. *Trade Association.* A fee-based organization consisting of member firms in the same industry, or in related industries, or which share common commercial concerns. The purpose of the trade association is to further the commercial interests of its members through the exchange of information, legislative activities, and the like.

2. *Non-Profit Industry Organization.* This definition applies to: a non-profit small business development center operating under agreement with the Small Business Administration; a non-profit World Trade Center chartered or recognized by the non-profit World Trade Centers Association; or an organization granted status as a non-profit organization under 26 U.S.C. 501(c)(3), (4), (5), or (6), which operates as one of the following: Chamber of commerce, board of trade, business, export or trade council/interest group, visitors bureau or tourism promotion group, economic development group, small business development center, or port authority.

3. *State Departments of Trade and Their Regional Associations.* This definition includes: department of a State government tasked with promoting trade, tourism, or other types of economic development; associations of the departments of trade (as defined above) of two or more States; or entities within a State or within a region that are associated with a State department of trade, tourism, or other types of economic development including non-profit, non-private, non-commercial entities which are at least partially funded by, directed by, or tasked by a State government to promote trade, tourism, or other types of economic development.

4. *Educational Institutions:* Educational institutions, such as schools, colleges, and universities, are generally not eligible. However, organizations that are part of or affiliated with an educational institution for administrative, accounting, legal, or logistical reasons may be eligible. Such organizations that are not independent legal entities—for example, an unincorporated organization—that otherwise may be classified above as a trade association, non-profit industry association, or State department of trade or regional association are eligible. In such a case, the eligible entity will include in its application a signed letter from the educational institution stating that MDCP funds will be used only by the eligible entity for the purposes outlined in its application, and that no such funds will be used by or retained by the educational institution, even though the funds may need to go through the educational institution because of the eligible entity's lack of a separate accounting system or lack of status as a separate legal entity.

Cost Sharing Requirements: A cooperator must contribute at least two dollars for each Federal dollar received. The first dollar's worth of contribution must be cash. The remaining cost share amount can be either cash or an in-kind contribution that is equivalent to that amount.

Evaluation and Selection Procedures: The evaluation criteria and selection factors that apply to applications to this funding opportunity are summarized below. The evaluation criteria for applications will have different weights and details. Further information about the evaluation criteria and selection factors can be found in the full funding opportunity announcement.

Evaluation Criteria For Projects: The Department is interested in projects that demonstrate the possibility of both significant progress during the award period, and lasting benefits extending beyond the award period. To that end, the selection panel reviews each application for financial assistance under MDCP based upon the evaluation criteria listed below.

1. *Potential to Strengthen Competitiveness (20 points).* A project's potential to strengthen competitiveness is evaluated primarily on the likelihood that it will result in export initiatives by U.S. firms, particularly small- and medium-sized enterprises. Such initiatives are normally characterized by a significant expenditure of resources by the chief executive officer of a company in the active pursuit of export sales. As noted above in Examples of Project Activity, many different kinds of activity can strengthen the competitiveness of U.S. industry; however, an applicant can earn the maximum number of points under this criterion only by demonstrating how its proposed project is expected to result in increased export initiatives by individual U.S. firms and exports by those firms.

2. *Performance Measurement (20 points).* Applicants must provide quantifiable estimates of projected export and market share increases and explain how they are derived. No application that lacks an estimate of exports can receive a performance measurement score that exceeds ten (10). Applicants must detail the methods they will use to gather and report performance information.

3. *Partnership and Priorities (20 points).* The degree to which the project initiates or enhances partnership with ITA and the degree to which the proposal furthers or is compatible with the following ITA priorities:

a. Improve the competitiveness of U.S. manufacturing and service industries by addressing impediments

to innovation and reducing the cost of doing business in foreign countries;

b. Increase competitiveness of U.S. industries in large markets like China, India, and Brazil by addressing non-tariff barriers, especially those related to standards and intellectual property rights;

c. Help U.S. industry to capitalize on effective global supply chain management strategies;

d. Advance market-based approaches to energy, clean development, and commercialization of alternative energy technologies;

e. Facilitate ease of travel to the United States and promote U.S. higher education and training opportunities to non-U.S. entities;

f. Capitalize on trade opportunities resulting from trade agreements;

g. Increase overall export awareness and awareness of ITA programs and services among U.S. companies, by making SMEs export-ready or by facilitating deal-making; and

h. Support the Administration's broader foreign policy objectives through competitiveness-related initiatives.

4. *Creativity and Capacity (20 points).* Creativity, innovation, and realism displayed by the work plan as well as the institutional capacity of the applicant to carry out the work plan.

a. *Demonstrating Creativity.* Applicants might propose ideas not previously tried to promote a particular industry in a market. Creativity can be demonstrated by the manner in which techniques are customized to meet the specific needs of certain client groups.

b. *Table Comparing Proposal to Current or Past MDCP Projects.* Applicants that have received an MDCP award in the past must submit a table comparing their current or past MDCP project(s) and their proposed project. The need for this table and the requested format are described below. MDCP awards are designed to help underwrite the start-up costs of new projects. Accordingly, current or past cooperators can be in a position to earn the maximum number of points under this criterion only if they propose projects that are entirely new. In order to determine whether a project is entirely new, the current or past cooperator must provide, as a separate appendix, a comparison between the elements of the proposed project and the elements of its current or past MDCP-funded projects. Current or past cooperators that propose projects that are not entirely new will receive fewer points under this criterion than they would receive otherwise. In determining the number of points under this criterion, the selection panel will consider the level to which a particular applicant has incorporated elements of its previously funded MDCP projects. To do this, current or past cooperators should submit a table wherein they approximate the amount of resources devoted to each project element.

c. *Institutional capacity.* The Department measures institutional capacity by what each applicant submits. A current or past cooperator should not assume that success with a prior MDCP project will automatically be taken into account by the Department when reviewing its application. Each applicant must document its institutional capacity in its application.

5. *Budget and Sustainability (20 points).* This criterion encompasses the reasonableness of the itemized budget for project activities, the amount of the cash match that is readily available at the beginning of the project, and the probability that the project can be continued on a self-sustained basis after the completion of the award. Current or past cooperators must show how the proposed project will achieve self-sustainability independent of any current or past MDCP projects. ITA does not assume that prior MDCP projects are self-sustaining. As noted in Creativity and Capacity above, ITA assesses each application based on what each applicant chooses to include in its application. If an applicant wants ITA to consider the self-sustainability of a prior project when evaluating a new project proposal, it should include relevant information in its application. Each of the above criteria is worth a maximum of 20 points. The five criteria together constitute the application score. At 20 points per criterion, the total possible score is 100.

Review and Selection Process: The applicant is responsible for submitting a complete application in a timely manner. Each complete application will be subject to the process set forth below.

1. *Eligibility Determination.* The MDCP staff of the Office of Planning, Coordination and Management (OPCM) in ITA's Manufacturing and Services (MAS), in consultation with the Department's Office of General Counsel, reviews all applications to determine the eligibility of each applicant.

2. *Program Area Review.* Relevant program areas, including ITA's MAS, Market Access and Compliance (MAC), and Commercial Service, have the opportunity to review the submitted applications. This allows experts in the industry sector or geographical region to assess applicant claims. These reviewers provide insights into both the potential benefits and the potential difficulties associated with the applications.

3. *OPCM Review.* Representatives of OPCM review and comment on applications using the evaluation criteria identified above. OPCM prepares for the selection panel a review packet including the applications and reviewer comments. The OPCM staff and program area comments afford the selection panel the insights and breadth of experience of Department professionals. However, the selection panel is free to consider or disregard them as it sees fit.

4. *Selection Panel Composition.* The MDCP Manager forwards all of the eligible applications, along with all related materials, to the selection panel of at least three senior ITA managers. This panel is chaired by the OPCM Director and typically includes three other members, one each from MAS, MAC, and the Commercial Service. Panel members are office directors or higher.

5. *Selection Panel Scoring.* Each selection panel member reviews each eligible application and assigns a score for each of the five criteria stated above. The scores of each selection panel member for each application reviewed are maintained in the files for seven years. The individual criteria scores are averaged to determine the total score for each application. The evaluation criteria scores assigned by the panel determine which applications are recommended for funding.

6. *Ranked Recommendation.* Based on the scores assigned by selection panel members and deliberations by the selection panel, the selection panel forwards the applications with the ten highest total scores (''top-ranked applications'') to the Assistant Secretary for Manufacturing and Services and recommends which of the top applications should receive funding. If the amount of funds requested by the top ten applicants is less than the funding available, the selection panel recommends additional applications for funding in rank order. The selection panel's recommendation will not deviate from the rank order. This means, for example, that the selection panel cannot recommend funding for the application ranked seventh without recommending funding for applicants ranked first through sixth. The selection panel recommendation includes the panel's written assessment of the strengths and weaknesses of the top-ranked applications.

Selection Factors for Projects: From the top-ranked applications forwarded by the selection panel, the Assistant Secretary for Manufacturing and

Services selects those applications that will receive funding. In addition to the Evaluation Criteria for Projects above, the Assistant Secretary for Manufacturing and Services may consider the selection factors listed below: 1. The selection panel's written assessments, 2. The degree to which applications satisfy the ITA priorities established under Project Funding Priorities above, 3. Geographic distribution of the proposed awards, 4. Diversity of industry sectors and overseas markets covered by the proposed awards, 5. Diversity of project activities represented by the proposed awards, 6. Avoidance of redundancy and conflicts with the initiatives of other Federal agencies, and 7. Availability of funds.

Intergovernmental Review: There are no intergovernmental review requirements beyond those already noted.

Limitation of Liability: In no event will the Department of Commerce be responsible for proposal preparation costs if these programs fail to receive funding or are cancelled because of other agency priorities. Publication of this announcement does not oblige the Department of Commerce to award any specific project or to obligate any available funds.

Paperwork Reduction Act: This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of Standard Forms 424, 424A, 424B, and SF–LLL and CD–346 has been approved by the Office of Management and Budget (OMB) under the respective control numbers 0348–0043, 0348–0044, 0348–0040, 0348–0046, and 0605–0001.

Notwithstanding any other provision of law, no person is required to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

Executive Order 12866: This notice has been determined to be not significant for purposes of Executive Order 12866.

Executive Order 13132 (Federalism): It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Administrative Procedure Act/ Regulatory Flexibility Act:

Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act or any other law for rules concerning public property, loans, grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements for the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

Dated: April 2, 2009.

Robert W. Pearson,

Director, Office of Planning, Coordination and Management Manufacturing and Services, International Trade Administration, Department of Commerce.

[FR Doc. E9–7823 Filed 4–6–09; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Technology Innovation Program (TIP) Notice of Additional Public Meetings (Proposers' Conferences)

AGENCY: National Institute of Standards and Technology (NIST), United States Department of Commerce.

ACTION: Notice of public meetings.

SUMMARY: The National Institute of Standards and Technology's (NIST) Technology Innovation Program (TIP) announces that it has scheduled three public meetings (Proposers' Conferences) on April 13, 2009, in Boston, Massachusetts; on April 15, 2009, in Detroit, Michigan; and on April 17, 2009, in San Jose, California. These meetings are in addition to the Proposers' Conference scheduled for April 8, 2009, in Gaithersburg, Maryland, that was announced previously in the **Federal Register** on March 31.

DATES: TIP announces that it is holding public meetings (Proposers' Conferences) on

1. April 8, 2009, 9 a.m.–1 p.m. Eastern Time in Gaithersburg, Maryland.
2. April 13, 2009, 1 p.m.–5 p.m. Eastern Time in Boston, Massachusetts.
3. April 15, 2009, 1 p.m.–5 p.m. Eastern Time in Detroit, Michigan.
4. April 17, 2009, 9 a.m.–1 p.m. Pacific Time in San Jose, California.

ADDRESSES: The Proposers' Conferences will be held at the following locations:

1. NIST Red Auditorium, 100 Bureau Drive, Gaithersburg, Maryland 20899. Electronic registration at: *https://rproxy.nist.gov/CRS/*.
2. Marriott Boston Cambridge, Two Cambridge Center, 50 Broadway, Cambridge, Massachusetts 02142.
3. Detroit Marriott at the Renaissance Center, 400 Renaissance Center, Detroit, Michigan 48243.
4. San Jose Marriott, 301 S. Market St., San Jose, California 95113.

FOR FURTHER INFORMATION CONTACT: Barbara Cuthill at 301–975–3273 or by e-mail at *barbara.cuthill@nist.gov*.

SUPPLEMENTARY INFORMATION: On March 31, 2009, the National Institute of Standards and Technology's (NIST) Technology Innovation Program (TIP) announced that it was soliciting high-risk, high-reward research and development (R&D) proposals for financial assistance. TIP is soliciting proposals under this fiscal year 2009 competition in two areas of critical national need entitled ''Civil Infrastructure'' and ''Manufacturing'' (74 FR 14524). TIP also announced the date and location of its Proposers' Conference on April 8, 2009, in Gaithersburg, Maryland, and indicated that any additional Proposers' Conferences would be announced in the **Federal Register,** on the *http://grants.gov* Web site and on the TIP Web site at *http://www.nist.gov/tip*. The legal authority for TIP is 15 USCS 278n.

TIP is holding Proposers' Conferences to provide general information regarding TIP, to offer guidance on preparing proposals, and to answer questions. Proprietary technical discussions about specific project ideas with NIST staff are not permitted at this Conference or at any time before submitting the proposal to TIP. Therefore, proposers should not expect to have proprietary issues addressed at the Proposers' Conference. Also, NIST/TIP staff will not critique or provide feedback on project ideas while they are being developed by a proposer. However, NIST/TIP staff will answer questions about the TIP eligibility and cost-sharing requirements, evaluation and award criteria, selection process, and the general characteristics of a competitive TIP proposal at the Proposers' Conference and by phone and e-mail. Attendance at the TIP Proposers' Conference is not required.

No registration fee will be charged at the Proposers' Conference. Presentation materials from the Proposers' Conference will be made available on the TIP Web site.

The Proposers' Conferences will be held as follows:

April 8, 2009, 9 a.m.–1 p.m. Eastern Time: NIST Red Auditorium, 100 Bureau Drive, Gaithersburg, Maryland 20899, (301–975–8910). Pre-registration is required by 5 p.m. Eastern Time on April 6, 2009 for the Proposers' Conference being held at NIST Gaithersburg, MD. Due to increased

security at NIST, no on-site registrations will be accepted and all attendees must be pre-registered. Photo identification must be presented at the NIST main gate to be admitted to the April 8, 2009 Conference. Attendees must wear their Conference badge at all times while on the NIST campus. Electronic registration at: *https://rproxy.nist.gov/CRS/*.

April 13, 2009, 1 p.m.–5 p.m. Eastern Time: Marriott Boston Cambridge, Two Cambridge Center, 50 Broadway, Cambridge, Massachusetts 02142, (617–494–6600) Pre-registration is not required.

April 15, 2009, 1 p.m.–5 p.m. Eastern Time: Detroit Marriott at the Renaissance Center, 400 Renaissance Center, Detroit, Michigan 48243, (313–568–8000) Pre-registration is not required.

April 17, 2009, 9 a.m.–1 p.m. Pacific Time: San Jose Marriott, 301 S. Market St., San Jose, California 95113, (408–280–1300) Pre-registration is not required.

Additional Information: The full Federal Funding Opportunity (FFO) announcement for this request for proposals contains detailed information and requirements for the program. Proposers are strongly encouraged to read the FFO in developing proposals. The full FFO announcement text is available at *http://www.grants.gov* and on the TIP Web site at *http://www.nist.gov/tip/helpful.html.* In addition, proposers are directed to review the March 2009 Technology Innovation Program Proposal Preparation Kit available at *http://www.nist.gov/tip/helpful.html.* The TIP Proposal Preparation Kit must be used to prepare a TIP proposal. The TIP implementing regulations are published at 15 CFR Part 296, and included in the TIP Proposal Preparation Kit as Appendix B.

Dated: April 1, 2009.

Patrick Gallagher,

Deputy Director.

[FR Doc. E9–7852 Filed 4–6–09; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XO48

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council's (Council) Herring Oversight Committee will meet to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Tuesday, April 21, 2009, at 9:30 a.m.

ADDRESSES: The meeting will be held at the Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930; telephone: (978) 281–9300; fax: (978) 281–9333.

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

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

SUPPLEMENTARY INFORMATION: The items of discussion in the committee's agenda are as follows:

1. Continue development of management alternatives to be included in Amendment 4 to the Atlantic Herring Fishery Management Plan (FMP);
2. Review/discuss alternatives for annual catch limits (ACLs) and accountability measures (AMs) and related changes to Atlantic herring fishery specification process; and
3. Continue development of management alternatives related to catch monitoring, which may include: monitoring and reporting requirements for herring vessels and processors, measures related to observer coverage and at-sea monitoring, measures to establish a dockside monitoring program, vessel monitoring system (VMS) requirements, and other related management measures.

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

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: April 2, 2009.

Tracey L. Thompson,

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

[FR Doc. E9–7806 Filed 4–6–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XO50

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council's (Council) Habitat/MPA/Ecosystems Committee will meet to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Thursday, April 23, 2009, at 9:30 a.m.

ADDRESSES: The meeting will be held at the Courtyard by Marriott, 1000 Market Street, Portsmouth, NH 03801; telephone: (603) 436–2121; fax: (603) 430–7666.

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

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

SUPPLEMENTARY INFORMATION: The items of discussion in the committee's agenda are as follows:

1. Discuss the March 18, 2009 Science and Statistical Committee review of Fishing Gear Seabed Impact Model (FiGSI);
2. Presentation of FiGSI results available since the March 3, 2009 Committee meeting;
3. Summary of plan development team (PDT) progress towards completing the FiGSI analyses;
4. Review timeline for completion of Phase II of the Essential Fish Habitat (EFH) Omnibus Amendment 2; and
5. Other issues at the discretion of the Chair.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues

arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: April 2, 2009.

Tracey L. Thompson,

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

[FR Doc. E9–7812 Filed 4–6–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and opportunity for public comment.

Pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. EDA has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PEITITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT

[2/19/2009 through 3/31/2009]

Firm	Address	Date accepted for filing	Products
Scentations, Inc	913 Plaza Drive, Pocahontas, AR 72455.	3/30/2009	Home accent products: Scented paraffin candles, potpourri, diffusers/refills, sprays, melts & sachets.
McKee Button Company	1000 Hershey Ave., P.O. Muscatine, IA 52761.	3/31/2009	Plastic buttons, decorative plastic panels used in furniture and interior design, and elastic belts used in adult diapers.
MRA Laboratories, Inc	15 Print Works Drive, Adams, MA 01220.	3/31/2009	Formulated ceramic dielectric materials for multilayer ceramic capacitors, electrode inks for multilayer ceramic capacitors, and prototypes of electronic components.
Hydromotion Inc	85 East Bridge Street, Spring City, PA 19475.	2/20/2009	Fluid swivels, electric swivels, telescoping waterways and position sensing systems.
Citation Corporation Grand Rapids, MI.	3559 Kraft Ave., SE., Grand Rapids, MI 46512.	2/27/2009	Precision machined aluminum castings.
Cox Manufacturing Co., Inc	218 Cline Park Drive, Hildebran, NC 28637.	3/13/2009	Chairs, benches, stools, and barstools.
Newell Coach	P.O. Box 511, Miami, OK 74354.	2/27/2009	Motor vehicles for business and recreational use.
Dakota Foundry, Inc	20 North Park Lane, Webster, CO 57274.	3/16/2009	Iron (gray and ductile) castings.
SenDec Corporation	72 Perinton Parkway, Fairport, NY 14450.	3/16/2009	Comprehensive electronic manufacturing services (EMS) including: Design for manufacturability, prototyping, PCB (printed circuit board) and electromechanical assembly, test engineering, rework, and supply chain.
St. Jude Packaging Co	5510 W. 65th Street, Little Rock, AR 72209.	3/6/2009	Fully laminated corrugated counter floor displays.
Drives Unlimited, Inc	12301 Grant St., Suite 150, Thornton, CO 80241.	2/19/2009	Hard Disc Drives.
Gem City Engineering Company.	401 E. Leo St., Dayton, OH 45404.	2/27/2009	Assembly line machines and electro mechanical machines.
Joseph Machine Company, Inc	595 Range End Road, Dillsburg, PA 17019.	3/17/2009	Designs and manufactures custom fab centers, cutting saws, notch saws, end mills, welders, and corner cleaners.
Tring Corporation	8991 East Lincoln Way, Orrville, OH 44667.	3/18/2009	Fabricated and machined components including metal housings for electrical apparatus and custom equipment.
Cellusuede Products, Inc	500 N. Madison St., P.O., Rockford, IL 61105.	3/18/2009	Flock, including: Rayon, nylon, polyester, polypropylene, acrylic and other synthetic fibers.
The Medalcraft Mint, Inc	2660 W. Mason St., Green Bay, WI 54303.	3/19/2009	Die-struck minted coins, awards, and commemoratives.
Integrity Building Systems, Inc	2435 Housels Run Road, Milton, PA 17847.	3/23/2009	Modular units for single or multi-family dwellings and commercial buildings.
Northeast Manufacturing Co	35 Spencer Street, Stoneham, MA 02180.	2/20/2009	Precision machined metal, plastic parts and mechanical assemblies.
Flores & Foley, Inc	2015 Capital Drive, Wilmington, NC 28405.	3/24/2009	Custom fabrication of construction-related sheet metal accessories from all roof and building-related flashings and metal accessories, as well as specialty metal roofing systems, decorative cupolas and finials, copper and stainless steel fountains and fireplace mantels.
Gonzalez Production Systems, Inc.	1670 East Highwood, Pontiac, MI 48340.	3/24/2009	Robots for closure, welding and assembly functions on production lines.

LIST OF PEITITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT—Continued

[2/19/2009 through 3/31/2009]

Firm	Address	Date accepted for filing	Products
Q-Flex, Inc	1301 E. Hunter Ave., Santa Ana, CA 92705–4133.	3/4/2009	Designs and manufactures circuit boards for the inter-connect industry.
Peter Paul Electronics Co., Inc	480 John Downey Drive, New Britian, CT 06050–1180.	3/27/2009	Custom valves as well as a large variety of valves.
Indepak, Inc	2136 NE 194th Ave., Portland, OR 97230.	3/27/2009	Thermoformed plastic products such as packaging. dental trays and other plastic products.
Arlowe Corporation d/b/a ETM	21 Concord Street, Wilmington, MA 01887.	3/30/2009	Cabinets and enclosures for some of the world's leading equipment manufacturers.
Drapery Supply Company, Inc	5570 West 60th Avenue, Arvada, CO 80003.	3/30/2009	Window coverings.
Molded Fiber Glass Tray Company.	6175 U.S. Highway 6, Linesville, PA 16424.	3/25/2009	Plastic trays, bins, and other containers for the food service and candy industries.
New Archery Products Corp	7500 Industrial Drive, Forest Park, IL 60130.	3/25/2009	Archery accessories and products.
Spyraflo, Inc	404 Dividend Drive, Peachtree City, GA 30269.	3/27/2009	Self-clinching, self-aligning bearings.
Royal Industries International, Inc.	225 25th Street, Brooklyn, NY 11232.	3/30/2009	Vinyl promotional products such as card cases, clipboards, portfolios, pocket planners and other vinyl type of items that can be manufactured and imprinted with a corporate logo.
Marengo Valve and Foundry, LLC.	123 West Railroad St., Marengo, IL 60152.	3/31/2009	Ductile iron, gray iron and steel castings of valves, rail track, agricultural components and replacement parts.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Office of Performance Evaluation, Room 7009, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. Please follow the procedures set forth in Section 315.9 of EDA's final rule (71 FR 56704) for procedures for requesting a public hearing. The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: April 1, 2009.

William P. Kittredge,

Program Officer for TAA.

[FR Doc. E9–7784 Filed 4–6–09; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

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

DATES: Interested persons are invited to submit comments on or before June 8, 2009.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.,* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: April 1, 2009.

Angela C. Arrington,

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

Office of Postsecondary Education

Type of Review: Revision.

Title: Higher Education Opportunity Act (HEOA) Title II Reporting Forms on Teacher Quality and Preparation.

Frequency: Annually.

Affected Public: Businesses or other for-profit; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 1,309.

Burden Hours: 235,961.

Abstract: The Higher Education Opportunity Act of 2008 calls for annual reports from States and institutions of higher education (IHEs) on the quality of teacher preparation and State teacher certification and licensure (Pub. L. 110–315, sections 205–208). The purpose of

the reports is to provide greater accountability in the preparation of the nation's teaching forces and to provide information and incentives for its improvement. IHEs that have teacher preparation programs must report annually to their States on the performance of their program completers on teacher certification or licensure tests. States, in turn, must report test performance information, institution by institution, to the Secretary of Education. They must also report on their requirements for teacher certification and licensure, State standards, alternative routes to certification, low performing teacher preparation programs and related items.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 3990. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E9–7826 Filed 4–6–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency information collection activities: proposed collection; comment request.

SUMMARY: The EIA is soliciting comments on the proposed three-year extension and revision to the Form EIA–28, ''Financial Reporting System (FRS).''

DATES: Comments must be filed by June 8, 2009. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Send comments to Neal Davis of EIA. To ensure receipt of the comments by the due date, submission by fax (202–586–9753) or e-mail (*neal.davis@eia.doe.gov*) is recommended. Mr. Davis' mailing address is Energy Information Administration (EI 62), Financial Analysis Team, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Alternatively, Mr. Davis may be contacted by telephone at (202) 586–6581.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of any forms and instructions for the Financial Reporting System should be directed to Mr. Davis at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

The Federal Energy Administration Act of 1974 (15 U.S.C. 761 *et seq.*) and the DOE Organization Act (42 U.S.C. 7101 *et seq.*) require the EIA to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy resource reserves, production, demand, technology, and related economic and statistical information. This information is used to assess the adequacy of energy resources to meet near and longer term domestic demands.

The EIA, as part of its effort to comply with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*), provides the general public and other Federal agencies with opportunities to comment on collections of information conducted by or in conjunction with the EIA. Also, the EIA will later seek approval for this collection by the Office of Management and Budget (OMB) under Section 3507(a) of the Paperwork Reduction Act of 1995.

Under Public Law 95–91, section 205(h), the Administrator of the EIA is required to ''identify and designate'' the major energy companies who must annually file Form EIA–28 to ensure that the data collected provide ''a statistically accurate profile of each line of commerce in the energy industry in the United States.'' Data collected on Form EIA–28 are published and used in analyses of the energy industry.

U.S. major energy companies report financial and operating information to the FRS survey each year on a consolidated corporate level, by individual lines of business, by major functions within each line of business, and by various geographic regions. From this information, EIA produces the annual publication Performance Profiles of Major Energy Producers. The data are also used for analyses and inquiries concerning earnings, profitability, investments, production and refining costs, reserve growth, and other issues related to the financial performance of major energy producers.

Please refer to the proposed forms and instructions for more information about the purpose, who must report, when to report, where to submit, the elements to be reported, detailed instructions, provisions for confidentiality, and uses (including possible nonstatistical uses) of the information. For instructions on obtaining materials, see the **FOR FURTHER INFORMATION CONTACT** section.

II. Current Actions

EIA is proposing a three-year extension with changes to the previously approved Form EIA–28 for the FRS survey to be conducted in 2010 collecting information for 2009.

EIA is proposing the following changes to the form:

- Expand the balance sheet information requested for property, plant, and equipment (PP&E), and investments and advances to unconsolidated affiliates beyond additions to include other changes, such as reclassifications and impairments;
- Reduce the scope of domestic information collected on the downstream natural gas and electric power operations of the major energy companies;
- Recategorize some downstream natural gas business operations to more closely align the survey with industry practices; and
- Add coverage of foreign operations for petroleum purchases and sales of raw materials and refined products, and for downstream natural gas operating expenses.

Schedule 5120 ''Selected Consolidating Balance Sheet and Financial Data'' will be expanded to include collection of other changes to PP&E and investments and advances to unconsolidated affiliates, by line of business.

Many of the questions for the downstream natural gas and electric power lines of business require detailed information from the operational units of the FRS respondent companies, and are more difficult to obtain. Data for several items are only provided by one or two companies. Consequently, the

limited response severely restricts the usefulness of the data, and the analysis that can be done. Reducing the scope of the survey will also reduce the reporting burden on the survey respondents.

The proposed modifications include elimination of most of Schedules 5812 ''Domestic Electric Power Segments, Purchases and Sales of Fuel and Electric Power'' and 5841 ''Electric Power Capacity and Output Statistics.'' The following schedules for the downstream natural gas and electric power lines of business will be reduced in scope:

- Schedule 5710, Downstream Natural Gas, Consolidating Statement of Income,
- Schedule 5810, Electric Power, Consolidating Statement of Income, and
- Schedule 5811, Electric Power, General Operating Expense Detail.

The following schedules will be expanded to include foreign activities:

- Schedule 5211, Petroleum Segments, Refining/Marketing Operating Expense Detail,
- Schedule 5212, Petroleum Segments, Purchases and Sales of Raw Materials and Refined Products, and
- Schedule 5711, Downstream Natural Gas, General Operating Expense Detail.

Copies of the proposed new schedules and the instructions are available from Mr. Davis.

III. Request for Comments

Prospective respondents and other interested parties should comment on the actions discussed in item II. The following guidelines are provided to assist in the preparation of comments.

As a Potential Respondent to the Request for Information

A. Is the proposed collection of information necessary for the proper performance of the functions of the agency and does the information have practical utility?

B. What actions could be taken to help ensure and maximize the quality, objectivity, utility, and integrity of the information to be collected?

C. Are the instructions and definitions clear and sufficient? If not, which instructions need clarification?

D. Can the information be submitted by the respondent by the due date?

E. Public reporting burden for this collection is estimated to average 500 hours per response. The estimated burden includes the total time necessary to provide the requested information. In your opinion, how accurate is this estimate?

F. The agency estimates that the only cost to a respondent is for the time it will take to complete the collection. Will a respondent incur any start-up costs for reporting, or any recurring annual costs for operation, maintenance, and purchase of services associated with the information collection?

G. What additional actions could be taken to minimize the burden of this collection of information? Such actions may involve the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

H. Does any other Federal, State, or local agency collect similar information? If so, specify the agency, the data element(s), and the methods of collection.

As a Potential User of the Information To Be Collected

A. Is the proposed collection of information necessary for the proper performance of the functions of the agency and does the information have practical utility?

B. What actions could be taken to help ensure and maximize the quality, objectivity, utility, and integrity of the information disseminated?

C. Is the information useful at the levels of detail to be collected?

D. For what purpose(s) would the information be used? Be specific.

E. Are there alternate sources for the information and are they useful? If so, what are their weaknesses and/or strengths?

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

Statutory Authority: Section 3507(h)(1) of the Paperwork Reduction Act of 1995, Federal Energy Administration Act of 1974 (15 U.S.C. 761 *et seq.*), and the DOE Organization Act (42 U.S.C. 7101 *et seq.*).

Issued in Washington, DC, April 1, 2009.

Stephanie Brown,

Director, Statistics and Methods Group, Energy Information Administration.

[FR Doc. E9–7814 Filed 4–6–09; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13357–000]

Project 7 Water Authority; Notice of Conduit Exemption Application Accepted for Filing and Soliciting Comment, Motions To Intervene, and Competing Applications

March 31, 2009.

On January 15, 2009, and supplemented on March 24, 2009, Project 7 Water Authority filed an application pursuant to 16 U.S.C. 791a–825r of the Federal Power Act, for conduit exemption of the Project 7 Hydro Plant Hydroelectric Project, to be located on the raw water supply conduit from the Fairview Reservoir to the Project 7 water treatment plant in Montrose, Montrose County, Colorado.

The proposed Project 7 Hydro Plant Hydroelectric Project consists of: (1) a proposed flow control building containing two generating units having installed capacities of 61 kilowatts and 91 kilowatts, and (2) appurtenant facilities. The Project 7 Water Authority estimates the project would have an average annual generation of 600,000 kilowatt-hours that would be used by the water treatment facility with any excess being sold to a local utility.

Applicant Contact: Mr. Dick Margetts, Manager, Project 7 Water Authority, P.O. Box 1185, 69128 E. Highway 50, Montrose, CO 81401, Tel: (970) 249–5935, *project7@montrose.net*.

FERC Contact: Christopher Chaney, (202) 502–6778, *chirstopher.chaney@ferc.gov*.

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

Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–13357) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–7768 Filed 4–6–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

DEPARTMENT OF AGRICULTURE

Rural Utility Service

Proposed PrairieWinds Project, South Dakota

AGENCIES: Western Area Power Administration, U.S. Department of Energy; Rural Utilities Service, U.S. Department of Agriculture.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement and to Conduct Scoping Meetings; Notice of Floodplain and Wetlands Involvement.

SUMMARY: The Western Area Power Administration (Western), an agency within the U.S. Department of Energy (DOE), and Rural Utilities Service (RUS), an agency within the U.S. Department of Agriculture (USDA), intend to jointly prepare an environmental impact statement (EIS) for the proposed PrairieWinds Project (Project) in South Dakota. Western is issuing this Notice of Intent (NOI) to inform the public and interested parties about the proposed Project, conduct a public scoping process, and invite the public to comment on the scope, proposed action, alternatives, and other issues to be addressed in the EIS.

The EIS will address the construction, maintenance and operation of the proposed Project, which would include a 151.5-megawatt (MW) nameplate capacity wind-powered generating facility consisting of wind turbine generators, electrical collector lines, collector substation(s), transmission line(s), communications system, and service roads to access wind turbine sites. The EIS will also address the proposed interconnection with existing Western substations. The proposed Project would be located within portions of Brule, Aurora, and Jerauld counties, South Dakota or entirely within Tripp County, South Dakota.

Portions of the proposed Project may affect floodplains and wetlands, so this NOI also serves as a notice of proposed floodplain or wetland action. Western and RUS will hold public scoping meetings near the proposed Project areas to share information and receive comments and suggestions on the scope of the EIS.

DATES: Open house public scoping meetings will be held on April 28, 2009, at the Holiday Inn Express and Suites, 1360 East Highway 44, Winner, South Dakota, 57580, from 4 p.m. to 7 p.m. CDT; and on April 29, 2009, at the Commerce Street Grille, 118 N. Main Street, Plankinton, South Dakota, 57368, from 4 p.m. to 7 p.m. CDT. The public scoping period starts with the publication of this notice in the **Federal Register** and will continue through May 15, 2009. To help define the scope of the EIS, written comments should be submitted through the project's Web address: *http://www.wapa.gov/sdprairiewinds.htm*, or sent by letter, fax, or e-mail no later than May 15, 2009.

ADDRESSES: Written comments on the scope of the EIS should be addressed to Ms. Liana Reilly, Document Manager, Western Area Power Administration, Corporate Services Office, A7400, P.O. Box 281213, Lakewood, Colorado 80228–8213, fax (720) 962–7263, or sent by e-mail to *sdprairiewinds@wapa.gov*. Comments may also be submitted through the project's Web address: *http://www.wapa.gov/sdprairiewinds.htm*.

FOR FURTHER INFORMATION CONTACT: For information on the proposed Project, the EIS process, and general information about interconnections with Western's transmission system, contact Ms. Reilly at (800) 336–7288 or the address provided above. Parties wishing to be placed on the Project mailing list for future information, and to receive copies of the Draft and Final EIS when they are available, should also contact Ms. Reilly.

For information on RUS financing, contact Mr. Dennis Rankin, Project Manager, Engineering and Environmental Staff, Rural Utilities Service, Utilities Program, 1400 Independence Avenue, SW., Mail Stop 1571, Washington, DC 20250–1571, telephone (202) 720–1953 or e-mail *dennis.rankin@wdc.usda.gov*.

For general information on DOE National Environmental Policy Act (NEPA), 42 U.S.C. 4321–4347 review procedures or status of a NEPA review, contact Ms. Carol M. Borgstrom, Director of NEPA Policy and Compliance, GC–20, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, telephone (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: Western, an agency within DOE, markets Federal hydroelectric power to preference customers, as specified by law. These customers include municipalities, cooperatives, public utilities, irrigation districts, Federal and State agencies, and Native American Tribes in 15 western states, including South Dakota. Western owns and operates about 17,000 miles of transmission lines.

RUS, an agency that delivers the USDA's Rural Development Utilities Program, is authorized to make loans and loan guarantees that finance the construction of electric distribution, transmission, and generation facilities, including system improvements and replacements required to furnish and improve electric service in rural areas, as well as demand side management, energy conservation programs, and on-grid and off-grid renewable energy systems.

Basin Electric is a regional wholesale electric generation and transmission cooperative owned and controlled by its member cooperatives. Basin Electric serves approximately 2.5 million customers covering 430,000 square miles in portions of nine states, including Colorado, Iowa, Minnesota, Montana, Nebraska, New Mexico, North Dakota, South Dakota, and Wyoming.

PrairieWinds, SD1, Incorporated (PrairieWinds), is a wholly owned subsidiary of Basin Electric.

Project Description

PrairieWinds proposes to construct, own, operate, and maintain the South Dakota PrairieWinds Project, a 151.5–MW nameplate capacity wind-powered generation facility, including wind-turbine generators, electrical collector lines, collector substation(s), transmission line, communications system, and service access roads to access wind-turbine sites.

There are two possible locations for the proposed Project. One site is located on about 37,000 acres about 15 miles north of White Lake, South Dakota, within Brule, Aurora, and Jerauld counties, South Dakota. For this alternative, the requested interconnection is with Western's electric transmission system at Wessington Springs Substation, located in Jerauld County, South Dakota. The other site is located on about 83,000 acres about 8 miles south of Winner, South Dakota, entirely within Tripp County, South Dakota. If this alternative is selected, the interconnection request will be with Western's electric transmission system at Winner Substation, located in Tripp County.

The proposed Project is subject to the jurisdiction of the South Dakota Public Utilities Commission (SDPUC), which has regulatory authority for siting wind generation facilities and transmission lines within the State. PrairieWinds will submit an application for an Energy Conversion Facility Permit to the SDPUC. The SDPUC permit would authorize PrairieWinds to construct the proposed Project under South Dakota rules and regulations. Western's Federal action is to consider Basin Electric's interconnection request under Western's Open Access Transmission Service Tariff and make a decision whether to approve or deny the interconnection request. If the decision is to approve the request, Western's action would include making necessary system modifications to accommodate the interconnection of the proposed Project. PrairieWinds has requested financial assistance for the proposed Project from RUS. RUS' Federal action is whether to provide financial assistance; accordingly, completing the EIS is one requirement, along with other technical and financial considerations in processing PrairieWind's application.

Western and RUS intend to prepare an EIS to analyze the impacts of their respective Federal actions and the proposed Project in accordance with NEPA, as amended, DOE NEPA Implementing Procedures (10 CFR 1021), the CEQ regulations for implementing NEPA (40 CFR 1500–1508), and RUS Environmental Policies and Procedures (7 CFR 1794). While Western's and RUS' Federal actions would be limited to the approval or denial of the interconnection request, any modifications to Western's power system necessary to accommodate the interconnection, and providing financial assistance for the proposed Project, the EIS will also identify and address the environmental impacts of the proposed Project. The EIS will evaluate in detail the two alternatives, any other viable alternatives identified during the public scoping process, and the No Action Alternative.

Regardless of the site selected, the proposed Project would consist of four main facilities: Turbines, collector system, roads, and transmission lines. PrairieWinds plans to install 101 General Electric 1.5–MW wind turbines for the proposed Project within one of the alternative generation sites. Fifteen additional turbines may be installed within the selected site, pending future load, transmission availability, and renewable production standard requirements. Each generator would have a hub height of 262 feet and a turbine rotor diameter of 252 feet. The total height of each wind turbine would be 389 feet with a blade in the vertical position. The towers would be constructed of tubular steel, approximately 15 feet in diameter at the base, with internal joint flanges. The color of the towers and rotors would be standard white or off-white. During construction, a work/staging area at each turbine would include the crane pad and rotor assembly area. This area would measure about 190 feet by 210 feet. The turbine foundations would typically be mat foundations (inverted T-foundations) or a concentric-ring-shell foundation. The area excavated for the turbine foundations would typically be no more than 70 feet by 70 feet (approximately 0.1 acre). Pad mounted transformers 74 inches by 92 inches by 70 inches would be placed next to each turbine. In some cases, for step-and-touch voltage compliance, an area around a turbine may be covered in 4 inches of gravel, river rock or crushed stone.

Each wind turbine would be interconnected with underground power and communications cables, identified as the collector system. This system would be used to route the power from each turbine to a central collector substation(s) where the electrical voltage would be stepped up from 34.5 kilovolt (kV) to 230-kV. The collector substation(s) would be enclosed in a fence with dimensions about 350 feet by 140 feet. The underground collector system would be placed in one trench or two parallel trenches and connect each of the turbines to a central collector substation. The estimated trench length, including parallel trenches, is 317,000 feet (60 miles).

The fiber optic communication lines for the proposed Project would be installed in the same trenches as the underground electrical collector cables and connect each turbine to a proposed operations and maintenance (O&M) building and collector substation(s). It is anticipated that a 5,500-square foot (50 feet by 110 feet) O&M building would be built within the vicinity of the collector substation. The final location would be determined in consultation with future operations personnel.

New access roads would be built to facilitate both construction and maintenance of the turbines. This road network would be approximately 70 miles of new and/or upgraded roads. These roads would be designed to minimize length and construction impact. Initially, turbine access roads would be built to approximately 25-feet wide, to accommodate the safe operation of construction equipment. Upon completion of construction, the turbine access roads would be reclaimed and narrowed to an extent allowing for the routine maintenance of the facility. Existing roads, including state and county roads and section line roads, would also be improved to aid in servicing the turbine sites. Approximately 30 to 40 miles of new turbine access roads would be built and 25 to 35 miles of existing roads would be used and, where appropriate, improved.

Under one alternative, a new 230-kV transmission line would be required to deliver the power from the collector substation(s) to a new 230-kV Western interconnection point at the existing Wessington Springs Substation. The Wessington Springs Substation is located approximately 9 to 12 miles from the proposed collector substation(s). The proposed line would be built using wood or steel H-frame (two pole) structures or steel single-pole structures. The structures would be about 85 to 95 feet high and span about 800 feet.

The other alternative site, near Winner, would require 34.5-kV to 115-kV collector substation(s) as well as a 115-kV transmission line to interconnect to Western's existing 115-kV Winner Substation. Other facilities would be similar to those described for the proposed Project. Because the proposed Project may involve action in floodplains or wetlands, this NOI also serves as a notice of proposed floodplain or wetland action, in accordance with DOE regulations for Compliance with Floodplain and Wetlands Environmental Review Requirements at 10 CFR 1022.12(a). The EIS will include a floodplain/wetland assessment and, if required, a floodplain/wetland statement of findings will be issued with the Final EIS or Western's and RUS' Records of Decision.

Agency Responsibilities

Western and RUS are serving as co-lead Federal agencies, as defined at 40 CFR 1501.5, for preparation of the EIS. With this notice, Native American Tribes and agencies with jurisdiction or special expertise are invited to be cooperating agencies. Such tribes or agencies may make a request to Western to be a cooperating agency by contacting Western's NEPA Document Manager. Designated cooperating agencies have certain responsibilities to support the NEPA process, as specified at 40 CFR 1501.6(b).

Environmental Issues

This notice is to inform agencies and the public of Western's and RUS' Federal actions, and the proposed Project, and to solicit comments and suggestions for consideration in preparing the EIS. To help the public frame its comments, this notice contains a list of potential environmental issues that Western and RUS have tentatively identified for analysis. These issues include:

1. Impacts on protected, threatened, endangered, or sensitive species of animals or plants;
2. Impacts on avian and bat species;
3. Impacts on land use, recreation, and transportation;
4. Impacts on cultural or historic resources and tribal values;
5. Impacts on human health and safety;
6. Impacts on air, soil, and water resources (including air quality and surface water impacts);
7. Visual impacts; and
8. Socioeconomic impacts and disproportionately high and adverse impacts to minority and low-income populations.

This list is not intended to be all-inclusive or to imply any predetermination of impacts. Environmental issues associated with Western's action, RUS' action, and PraireWinds' proposed Project will be addressed separately in the EIS. Western and RUS invite interested parties to suggest specific issues within these general categories, or other issues not included above, to be considered in the EIS.

Public Participation

Public participation and full disclosure are planned for the entire EIS process. The EIS process will include public scoping open house meetings and a scoping comment period to solicit comments from interested parties; consultation and involvement with appropriate Federal, State, local, and tribal governmental agencies; public review and a hearing on the draft EIS; publication of a final EIS; and publication of separate Records of Decision by Western and RUS, currently anticipated in 2010. Additional informal public meetings may be held in the proposed Project areas, if public interest and issues indicate a need.

The public scoping period begins with publication of this notice in the **Federal Register** and closes May 15, 2009. The purpose of the scoping meetings is to provide information about Western's Federal action, RUS's Federal action, and the proposed Project, display maps, answer questions, and take written comments from interested parties.

Western and RUS will hold open house public scoping meetings in Plankinton, South Dakota and Winner, South Dakota as noted above. Attendees are welcome to come and go at their convenience and to speak one-on-one with Project representatives and agency staff. The public will have the opportunity to provide written comments at the meeting. In addition, attendees may provide written comments by letter, fax, e-mail, or through the project's Web address.

To be considered in defining the scope of the EIS, comments should be received by the end of the scoping period. Anonymous comments will not be accepted.

Dated: March 30, 2009.

Timothy J. Meeks,

Administrator.

Dated: March 26, 2009.

Mark S. Plank,

Director, Engineering and Environmental Staff, Rural Utilities Service.

[FR Doc. E9–7813 Filed 4–6–09; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8789–8; EPA–HQ–OEI–2007–1152]

Amendment to the Toxic Substances Control Act Confidential Business Information Records Access System, EPA–20

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the Office of Pollution Prevention and Toxics is giving notice that it proposes to amend the ''Toxic Substance Control Act Confidential Business Information Records Access System'' to ''Confidential Business Information Tracking System (CBITS)'' to correct the official name of the system of record notice (SORN), system location and system manager.

DATES: Persons wishing to comment on this system of records notice must do so by May 18, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–2007–1152, by one of the following methods:

- *http://www.regulations.gov:* Follow the online instructions for submitting comments.
- *E-mail: oei.docket@epa.gov*
- *Fax:* 202–566–1752.
- *Mail:* OEI Docket, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* OEI Docket, EPA/DC, EPA West Building, Room B102, 1301 Constitution Ave., NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OEI–2007–1152. 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 for which disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov*. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you 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 for which 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 OEI Docket, EPA/DC, EPA West Building, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: Tony Cheatham, 202–564–8594.

SUPPLEMENTARY INFORMATION:

I. General Information

The ''Confidential Business Information Tracking System (CBITS)'' tracks documents received by the Environmental Protection Agency (EPA), Office of Pollution Prevention and Toxics (OPPT) as well as all information pertaining to the EPA, the contractors, and other government staff members that request access to Toxic Substances Control Act (TSCA) Confidential Business Information (CBI). CBITS has a major security module that tracks information on federal and contractor personnel, contractors, and other government staff members that have been granted approval to access TSCA CBI. The security module also tracks EPA OPPT contracts, contracting companies, and other off-site classified CBI locations. The system functionality allows an approved OPPT staff member or CBITS data base administrator (DBA) to create and modify profiles on federal and contractor personnel and contractor site information. Access to CBITS is limited to federal and contractor personnel responsible for the systems operations and management.

In 1986, CBITS was developed to process and track TSCA CBI data and users approved to access CBI data. The security module was created to validate the user TSCA CBI security clearance in connection with reviewing CBI materials. The security module contained vital information such as name, social security number (SSN), company/contractor identification, contractor site, and agency information that was required from the TSCA CBI Access Request, Agreement, and Approval Form, EPA Form 7740–6 (Rev. 10–03) and TSCA CBI ADP Registration Form, EPA Form 7740–25 (10–92). The SSN was a required data field in the system linked to user access of TSCA CBI and user profile reports. In October 2003, the EPA Form 7740–6 was revised to require the user to provide a 9 digit number replacing the SSN. Staff records prior to the revision contain the SSN for active and historical records.

CBITS is maintained in a secured storage facility at EPA Headquarters by OPPT in Washington, DC where only authorized and TSCA CBI cleared personnel, EPA staff or contractor's that have rights to manage the system or have access are allowed. User profiles can only be accessed by the CBITS DBA and authorized system users that maintain the security module and personnel data. The process of accessing CBITS information is compliant with TSCA Security procedures, FISCAM 3.2 and NIST 800–18. All precautions and guidelines are met so that the confidentiality of the data is not compromised.

Dated: March 23, 2009.

Linda A. Travers,

Acting Assistant Administrator and Chief Information Officer.

EPA–20

SYSTEM NAME:

Confidential Business Information Tracking System.

SYSTEM LOCATION:

Office of Pollution Prevention and Toxics, Information Management Division, Environmental Protection Agency, EPA East Building, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

EPA and other Federal agency employees and Office of Pollution Prevention and Toxics contractor employees who are or have ever been authorized for access to Toxic Substances Control Act Confidential Business Information (TSCA CBI).

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains basic identification information such as name, EPA identification card number, date and place of birth, office of contractor for which the individual works and telephone number. In addition, the system contains information pertinent to TSCA CBI access such as security briefing date, date added to system, date deleted from system and type of access authorized. The system no longer collects SSNs but maintains those previously collected.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Toxic Substances Control Act, 15 U.S.C. 2601 et seq.

PURPOSE(S):

To maintain a record of those persons cleared for access to TSCA CBI and to maintain the security of TSCA CBI.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, B, C, D, E, F, G, H, K, and L apply to this system. Records may also be disclosed:

1. To other Federal agencies when they possess TSCA CBI and need to verify clearance of EPA.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Current records are maintained in a computer database. Some older records are maintained in hard copy files.

RETRIEVABILITY:

From the computer database by addressing any type of data contained in the database, including name. From alphabetized hard copy files by name.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in safes. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Information in this system is maintained and updated for so long as individuals identified in the system are authorized for access to TSCA CBI. EPA Records Schedule 624, Title: Confidential Business Information Access, NARA Disposal Authority: N1–412–03–20

SYSTEM MANAGER(S) AND ADDRESS:

Director, Information Management Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, EPA East Building, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of record contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the Freedom of Information Office, ATTENTION: Privacy Act Officer.

ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document.

Additional identification procedures may be required in some instances.

CONTESTING PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR Part 16.

RECORD SOURCE CATEGORIES:

Record subjects provide identification information. EPA personnel add information about dates and type of access authorized.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

None.

[FR Doc. E9–7818 Filed 4–6–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8789–9]

Notice of Nationwide Waiver of Section 1605 (Buy American Requirement) of American Recovery and Reinvestment Act of 2009 (ARRA) for Projects With Debt Incurred on or After October 1, 2008 and Before February 17, 2009 That Are Refinanced Through the Clean or Drinking Water State Revolving Funds Using Assistance Provided Under ARRA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA is hereby granting a nationwide waiver of the Buy American requirements of ARRA Section 1605 under the authority of Section 1605(b)(1) (public interest waiver) for eligible projects for which debt was incurred on or after October 1, 2008 and before February 17, 2009, the date of enactment of ARRA. This action permits the use of non-domestic iron, steel, and manufactured goods in such projects funded by ARRA that may otherwise be prohibited under section 1605(a).

DATES: *Effective Date:* April 1, 2009.

FOR FURTHER INFORMATION CONTACT: Cynthia Dougherty, Director, Office of Ground Water and Drinking Water, (202) 564–3750 or Jim Hanlon, Director, Office of Wastewater Management, (202) 564–0748, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: In accordance with ARRA Section 1605(c), the EPA hereby provides notice that it is granting a nationwide waiver of the requirements of section 1605(a) of Public Law 111–5, Buy American requirements, for eligible projects for which a Clean or Drinking Water State Revolving Fund (SRF) has concluded or will conclude an assistance agreement using ARRA funds to refinance a debt incurred on or after October 1, 2008, and before February 17, 2009.

The basis for the nationwide waiver is the authorization in the SRF appropriations heading of ARRA for refinancing using ARRA funds of certain debt obligations, as follows:

> That notwithstanding section 603(d)(2) of the Federal Water Pollution Control Act and section 1452(f)(2) of the Safe Drinking Water Act, funds may be used to buy, refinance or restructure the debt obligations of eligible recipients only where such debt was incurred on or after October 1, 2008.

In the ordinary course of SRF business, refinancing of any existing debt obligations of assistance recipients eligible for refinancing is an allowable type of assistance under the sections referenced in the ARRA provision above, largely irrespective of when the debt was incurred. As the purpose of the SRF provisions of ARRA was to stimulate economic recovery by funding current infrastructure construction, the purpose of this ARRA provision was not to provide more advantageous financing for any projects whose construction had substantially already occurred. Rather, with the House of Representatives' passage of H.R. 7110 in late September 2008 giving notice of Congress' strong interest in economic recovery legislation, this refinancing provision was intended to include within the favorable financing terms of ARRA, eligible projects undertaken after that time (and within the Fiscal Year 2009 timeframe of ARRA as a supplemental appropriation) in anticipation of ARRA.

Moreover, as the debate on the legislation that ultimately became ARRA continued through November and December, 2008 into January and February, 2009, States and utilities increasingly reported that action on eligible projects that State SRFs wished to support and for which there was available funding under the base SRF program were being deferred, in the hope of obtaining more advantageous financing terms from the ARRA appropriation. In part because this deferral of financing and construction for genuinely ''shovel ready'' projects was in direct conflict with the most fundamental economic recovery purposes of ARRA, Congress adopted this refinancing provision to enable eligible projects which began creating jobs after October 1, 2008, to receive ARRA funding to recognize and support those projects' contribution to economic recovery. This is confirmed in the declaration of the Joint Explanatory Statement of the Conference (H. Rpt. 111–16, at 444) that ''[t]o ensure that funds are used to create jobs, the bill also limits the use of the revolving funds to buy, refinance, or restructure debt incurred prior to October 1, 2008.''

The proponents of projects that fall within the scope of this SRF refinancing provision for ARRA had, in order to obtain the initial financing, specified designs which may include elements which have limited or often no domestic availability, many may have solicited bids from prospective contractors, and some subsequently awarded construction contracts, and in some cases began construction, prior to the February 17, 2009, enactment of ARRA. All of these actions were in fulfillment of Congress' intention in passing ARRA and in particular, adopting this SRF refinancing provision, to create jobs and spur economic recovery ''by commencing activities and expenditures as expeditiously as possible.'' (See ARRA Section 3.)

Moreover, in all cases of initial financing prior to February 17, the project proponents were proceeding in good faith and without fair notice as to the existence and statutory scope of any Buy American requirement.

The imposition of ARRA's Buy American requirements on projects eligible for SRF assistance whose assistance applicants had already obtained financing on or after October 1, 2008 and prior to February 17, 2009, the date on which those requirements were imposed, would in all cases entail time-consuming delay and thus displace the ''shovel ready'' status of these projects. This would frustrate Congress' specific and explicit intent to allow for the use of ARRA funds to refinance those projects through the SRFs, as well as for expeditious construction generally. ARRA Section 1605(b)(1) authorized the Administrator to waive the requirements of Section 1605(a) in any case or category of cases in which she finds that applying subsection (a) would be inconsistent with the public interest.

Therefore, for the foregoing reasons, imposing ARRA's Buy American requirements for the category of cases described herein is not in the public interest. This supplementary information constitutes the ''detailed written justification'' required by Section 1605(c) for waivers ''based on a finding under subsection (b).''

Authority: Public Law 111–5, section 1605.

Dated: April 1, 2009.

Michael H. Shapiro,

Acting Assistant Administrator for Water.

[FR Doc. E9–7828 Filed 4–6–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8790–3]

Science Advisory Board Staff Office; Request for Nominations of Experts To Provide Advice on Mold Issues in Indoor Environments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice request for nominations.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office is requesting nominations to form an Ad Hoc panel, under the auspices of the SAB, to provide advice to the EPA on mold issues in indoor environments.

DATES: Nominations should be submitted by April 28, 2009 per the instructions below.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding this Request for Nominations may contact Dr. K. Jack Kooyoomjian, Designated Federal Officer (DFO), via telephone/voice mail at (202) 343–9984; via e-mail at *kooyoomjian.jack@epa.gov* or at the U.S. EPA Science Advisory Board (1400F), 1200 Pennsylvania Ave., NW., Washington, DC 20460. General information about the SAB can be found in the SAB Web site at *http://www.epa.gov/sab.* The EPA technical contact for this review is Dr. Mary E. Clark, Assistant Director for Science, Office of Radiation and Indoor Air (ORIA), who may be contacted via telephone at (202) 343–9348 or by e-mail at *clark.marye@epa.gov.*

SUPPLEMENTARY INFORMATION:

Background: Physical inspection for water damage and mold is a key part of the Office of Radiation and Indoor Air's (ORIA's) mold remediation guidance (*http://www.epa.gov/mold/*). EPA's current indoor air guidance does not recommend routine sampling for mold. Rather, guidance for mitigating indoor mold states that if mold growth occurs in a building, the water problem must be fixed and the mold growth removed. The Agency's Office of Research and Development (ORD) has developed a tool, the Environmental Relative Moldiness Index (ERMI) (*http://www.epa.gov/microbes/moldtech.htm*) to screen indoor environments. The ERMI relies on collection of a dust sample from the building in question. Deoxyribonucleic Acid (DNA) from mold in the dust is analyzed using a mold-specific quantitative Polymerase Chain Reaction (PCR) methodology. The analytical results are then compared to the ERMI, which generates a numeric score that predicts whether the tested space is likely to have higher or lower mold levels than outdoors, and by extension, predicts whether occupants are more or less likely to be exposed to mold. The analysis also indicates some of the types of mold present. The ERMI may also have utility in screening buildings where mold is suspected, but not visible.

ORD and ORIA view the ERMI as a prototype research tool at the current state of development. However, the Agency has received questions from the general public, other government agencies and non-governmental organizations concerning mold issues. There have also been requests for guidance on the broader use of the ERMI and its relationship to existing EPA mold sampling, as well as other mold issues. Since the ERMI has not been validated for such applications, the Agency is interested in clarifying the role and use of ERMI in mold remediation guidance, especially in the aftermath of water-related emergencies, such as Hurricanes Katrina and Rita. The Agency has requested that the SAB provide advice on the technical applicability and limitations of the ERMI; its utility for identifying natural background and mold contaminated environments, identifying mold species and associated mycotoxins; the need for guidance on the use of ERMI for emergency response situations (such as flooding); the pros and cons of ERMI; and other approaches that might be employed.

Request for Nominations: The SAB Staff Office is requesting nominations to form an Ad Hoc panel to provide advice to the Agency on mold issues as described above. The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice, consultation, and recommendations to the EPA Administrator on the technical basis for Agency positions and regulations. The Ad Hoc panel will provide advice through the chartered SAB, and will comply with the provisions of the Federal Advisory Committee Act (FACA) and all appropriate SAB procedural policies.

To address EPA's need for scientific and technical advice, the SAB Staff Office is seeking individuals with nationally recognized expertise, experience, knowledge, and field experience in the following disciplinary areas with a specific focus on mold growth, exposure, effects, biodeterioration, building evaluation, and mold remediation in indoor environments:

(1) Epidemiology related to molds, fungi and bacteria; Microbiology related to molds, fungi and bacteria;

(2) Toxicology of molds, fungi and bacteria;

(3) Risk assessment related to indoor air quality, dampness and mold producing and mold biodeterioration conditions;

(4) Measurement statistics, bio-statistics, modeling and analysis of data on mold remediation;

(5) Emergency response and remediation associated with environmental microbiology and bio-aerosols;

(6) Environmental medicine, industrial hygiene, public health, or other medical fields related to mold exposures; and

(7) Risk perception and risk communication.

Process and Deadline for Submitting Nominations: Any interested person or organization may nominate qualified individuals to this Ad Hoc panel in the areas of expertise described above. Nominations should be submitted in electronic format through the SAB Web site at the following URL *http://www.epa.gov/sab*; or directly via the *Form for Nominating Individuals to Panels of the EPA Science Advisory Board* link found at URL: *http://www.epa.gov/sab/panels/paneltopics.html*. Please follow the instructions for submitting nominations carefully. To be considered, nominations should include all of the information required on the associated forms. Anyone unable to submit nominations using the electronic form and who has any questions concerning the nomination process may contact Dr. K. Jack Kooyoomjian, DFO, as indicated above in this notice. Nominations should be submitted in time to arrive no later than April 28, 2009.

For nominees to be considered, please include: Contact information; a curriculum vitae; a biosketch of no more than two paragraphs (containing information on the nominee's current position, educational background, areas of expertise and research activities, service on other advisory committees and professional societies; the candidate's special expertise related to the panel being formed; and sources of recent grant and/or contract support).

The EPA SAB Staff Office will acknowledge receipt of nominations. The names and biosketches of qualified

nominees identified by respondents to the **Federal Register** notice and additional experts identified by the SAB Staff will be posted on the SAB Web site at *http://www.epa.gov/sab*. Public comments on this ''Short List'' of candidates will be accepted for 21 calendar days. The public will be requested to provide relevant information or other documentation on nominees that the SAB Staff Office should consider in evaluating candidates.

For the EPA SAB Staff Office, a balanced subcommittee or review panel includes 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. In establishing the final Ad Hoc panel, the SAB Staff Office will consider public comments on the ''Short List'' of candidates, information provided by the candidates themselves, and background information independently gathered by the SAB Staff Office. Specific criteria to be used for panel membership include: (a) Scientific and/or technical expertise, knowledge, and experience (primary factors); (b) availability and willingness to serve; (c) absence of financial conflicts of interest; (d) absence of an appearance of a lack of impartiality; and (e) skills working in committees, subcommittees and advisory panels; and, for the panel as a whole, (f) diversity of, and balance among, scientific expertise, viewpoints, *etc.*

The SAB Staff Office's evaluation of an absence of financial conflicts of interest will include a review of 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. The form may be viewed and downloaded from the following URL address *http://www.epa.gov/sab/pdf/epaform3110–48.pdf*.

The approved policy under which the EPA SAB Office selects subcommittees and review panels is described in the following document: *Overview of the Panel Formation Process at the Environmental Protection Agency Science Advisory Board* (EPA–SAB–EC–02–010), which is posted on the SAB Web site at *http://www.epa.gov/sab/pdf/ec02010.pdf*.

Dated: March 31, 2009.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. E9–7829 Filed 4–6–09; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE U.S.

[Public Notice 109]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Notice and request for comments.

SUMMARY: The Export-Import Bank of the United States (''Ex-Im Bank''), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. This collection allows insured/guaranteed parties and insurance brokers to report overdue payments from the borrower and/or guarantor. Our customers will submit this form electronically through Ex-Im Online, replacing paper reporting. In this form, Ex-Im Bank has simplified reporting of payment defaults by including checkboxes and providing for many fields to be self-populated by Ex-Im Online. Ex-Im Bank provides insurance, loans and guarantees for the financing of exports of goods and services.

DATES: Written comments should be received on or before June 8, 2009 to be assured of consideration.

ADDRESSES: Direct all comments and requests for additional information to Mauricio Paredes, Export-Import Bank of the U.S., 811 Vermont Avenue, NW., Washington, DC 20571, (202) 565–3266.

SUPPLEMENTARY INFORMATION:

Titles and Form Numbers: EIB 09–01 Payment Default Report (Online).

OMB Number: None.

Type of Review: Regular.

Need and Use: The information requested enables insured/guaranteed parties and insurance brokers to report overdue payments from the borrower and/or guarantor.

Affected Public: Insured/guaranteed parties and brokers.

Estimated Annual Respondents: 200.

Estimated Time per Respondent: 15 minutes.

Estimated Annual Burden: 50 hours.

Frequency of Reporting or Use: On occasion.

Solomon Bush,

Agency Clearance Officer.

[FR Doc. E9–7830 Filed 4–6–09; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 22, 2009.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Montfort Bancorporation, Inc. Voting Trust (''Voting Trust''); Patrick M. Clare, as trustee of Voting Trust, various Clare Family trusts as beneficiaries of Voting Trust; Patrick M. Clare; Timothy J. Clare; Kelly A. Clare, as trustees of the Clare Family trusts, together as a group acting in concert; and Patrick M. Clare, all of Platteville, Wisconsin, individually; to acquire at least 25 percent of the voting shares of Montfort Bancorporation, Inc., and thereby indirectly acquire control of Clare Bancorporation, Inc., and Clare Bank, National Association, all of Platteville, Wisconsin.

Board of Governors of the Federal Reserve System, April 2, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–7838 Filed 4–6–09; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

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

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

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

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 1, 2009.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) P.O. Box 55882, Boston, Massachusetts 02106–2204:

1. Connecticut Mutual Holding Company, Winsted, Connecticut; to acquire through merger Collinsville Savings Mutual Holding Company, Collinsville Stock Holding Company, and thereby acquire Collinsville Savings Society, all of Collinsville, Connecticut.

In connection with the above application, Collinsville Savings Mutual Holding Company, Collinsville, Connecticut, also has applied to acquire 100 percent of the voting shares of Collinsville Stock Holding Company, Collinsville, Connecticut, which has applied to become a bank holding company by acquiring Collinsville Savings Society, Collinsville, Connecticut.

Board of Governors of the Federal Reserve System, April 2, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–7837 Filed 4–6–09; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act; Notice of Meeting

TIME AND DATE: 9 a.m. (Eastern Time) April 20, 2009.

PLACE: 4th Floor Conference Room, 1250 H Street, NW., Washington, DC 20005.

STATUS: Parts will be open to the public and parts closed to the public.

MATTERS TO BE CONSIDERED:

Parts Open to the Public

1. Approval of the minutes of the March 16, 2009 Board member meeting.
2. Thrift Savings Plan activity report by the Executive Director.
   a. Participant Activity Report.
   b. Systems Modernization.
   c. Quarterly Investment Performance Report.
   d. Legislative Report.
3. Recommendations on Potential Legislative Initiatives.
4. Quarterly Vendor Financial Report.
5. Annual Financial Audit Report.

Parts Closed to the Public

6. Proprietary information.
7. Personnel.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: April 3, 2009.

Thomas K. Emswiler,

Secretary, Federal Retirement Thrift Investment Board.

[FR Doc. E9–7969 Filed 4–3–09; 4:15 pm]

BILLING CODE 6760–01–P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

Trans No.	Acquiring	Acquired	Entities
Transactions Granted Early Termination—02/23/2009			
20090289	Deutsche Lufthansa AG	Sir Michael David Bishop	British Midland PLC
20090290	Texas Health Resources	Community Health Systems, Inc.	TTHR Limited Partnership
20090291	Valero Energy Corporation	VeraSun Energy Corporation	VeraSun Aurora Corporation; VeraSun Charles City, LLC; VeraSun Fort Dodge, LLC; VeraSun Hartley, LLC; VeraSun Marketing, LLC; VeraSun Reynolds, LLC; VeraSun Welcome, LLC
Transactions Granted Early Termination—02/24/2009			
20090292	Bank of America Corporation	Kern Schools Federal Credit Union	FIA Card Services, N.A.

Trans No.	Acquiring	Acquired	Entities
Transactions Granted Early Termination—02/25/2009			
20090294	General Electric Company	ATP Oil & Gas Corporation	ATP Infrastructure Partners, L.P.
Transactions Granted Early Termination—02/27/2009			
20090306	University of Southern California	Tenet Healthcare Corporation	Tenet HealthSystem Norris, Inc.; USC University Hospital, Inc.
Transactions Granted Early Termination—03/02/2009			
20090143	Intercontinental Exchange, Inc.	The Clearing Corporation	The Clearing Corporation
Transactions Granted Early Termination—03/03/2009			
20090287	Novartis Pharma AG	Portola Pharmaceuticals, Inc.	Portola Pharmaceuticals, Inc.
20090307	Baker Brothers Life Sciences, L.P.	Seattle Genetics, Inc.	Seattle Genetics, Inc.
Transactions Granted Early Termination—03/09/2009			
20090317	DCP Midstream Partners, LP	ConocoPhillips	DCP East Texas Holdings, LLC
20090318	DCP Midstream Partners, LP	Spectra Energy Corp.	DCP East Texas Holdings, LLC
20090322	Roger Penske	General Electric Company	Penske Truck Leasing Co., L.P.
Transactions Granted Early Termination—03/11/2009			
20090321	Marsh & McLennan Companies, Inc.	Callan Associates Inc.	Callan Associates Inc.
Transactions Granted Early Termination—03/13/2009			
20090263	William Goldring	Constellation Brands, Inc.	Barton Brands of California, Inc.; Barton Distillers Import Corp.; Constellation Spirits Inc.
20090327	Mascolo Brothers Limited	Toni & Guy Holdings, Inc.	Toni & Guy Holdings, Inc.
20090333	Fidelity National Financial, Inc.	Wind Point Partners V, L.P.	VI Acquisition Corp.; VICORP Restaurants, Inc.
20090336	Newport Global Opportunities Fund L.P.	Wind Point Partners V, L.P.	VI Acquisition Corp.; VICORP Restaurants, Inc.
Transactions Granted Early Termination—03/16/2009			
20090311	Fairholme Funds, Inc.	The St. Joe Company	The St. Joe Company.
20090313	Amphenol Corporation	General Electric Company	Times Microwave Systems, Inc.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Contact Representative or Renee Hallman, Contact Representative, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room H–303, Washington, DC 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E9–7551 Filed 4–6–09; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Guidance on the Genetic Information Nondiscrimination Act: Implications for Investigators and Institutional Review Boards

AGENCY: Office for Human Research Protections, Office of Public Health and Science, Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: The Office for Human Research Protections (OHRP), Office of Public Health and Science, is announcing the availability of a guidance document entitled, ''Guidance on the Genetic Information Nondiscrimination Act: Implications for Investigators and Institutional Review Boards.'' The guidance document provides OHRP's first formal guidance on this topic. The document, which is available on the OHRP Web site at *http://www.hhs.gov/ohrp/humansubjects/guidance/gina.html* and *http://www.hhs.gov/ohrp/humansubjects/guidance/gina.pdf*, is intended primarily for investigators who conduct, and institutional review boards (IRB) that review, non-exempt human subjects research involving genetic testing or collection of genetic information (hereinafter referred to as ''genetic research''). The guidance document provides background on protections provided by the Genetic Information Nondiscrimination Act of 2008 (GINA) and discusses some of the implications of GINA for investigators who conduct, and IRBs that review, genetic research, particularly with respect to the criteria for IRB approval of research and the requirements for obtaining informed consent under the Department of Health and Human Services (HHS) regulations for the protection of human subjects (45 CFR part 46).

DATES: Comments on OHRP guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the guidance document entitled, ''Guidance on the Genetic Information Nondiscrimination Act: Implications for Investigators and Institutional Review Boards,'' to the Division of Policy and Assurances, Office for Human Research Protections, 1101 Wootton Parkway, Suite 200, Rockville, MD 20852. Send one self-addressed adhesive label to assist that

office in processing your request, or fax your request to 301–402–2071. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance document. Submit written comments to GINA GUIDANCE COMMENTS, OHRP, 1101 Wootton Parkway, Suite 200, Rockville, MD 20852. Comments also may be sent via e-mail to *ohrp@hhs.gov* or via facsimile at 240–453–6909. Comments received, including any personal information, will be made available to the public upon request.

FOR FURTHER INFORMATION CONTACT: Michael A. Carome, M.D., Captain, U.S. Public Health Service, OHRP, 1101 Wootton Parkway, Suite 200, Rockville, MD 20852, 240–453–6900; e-mail *Michael.Carome@hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

OHRP, Office of Public Health and Science, is announcing the availability of a guidance document entitled, ''Guidance on the Genetic Information Nondiscrimination Act: Implications for Investigators and Institutional Review Boards.'' The guidance document provides OHRP's first formal guidance on this topic. The document applies to non-exempt human subjects research conducted or supported by HHS and is intended primarily for investigators who conduct, and IRBs that review, genetic research.

The guidance document provides some general background information regarding GINA and discusses some of the implications of GINA with respect to the criteria for IRB approval of research and the requirements for obtaining informed consent under the HHS regulations for the protection of human subjects (45 CFR part 46).

II. Electronic Access

Persons with access to the Internet may obtain the guidance document on OHRP's Web site at *http://www.hhs.gov/ohrp/humansubjects/guidance/gina.html* and *http://www.hhs.gov/ohrp/humansubjects/guidance/gina.pdf*.

III. Request for Comments

Interested persons may submit comments regarding this guidance document to OHRP at any time. Please see the **ADDRESSES** section for information on where to submit written comments.

Dated: April 1, 2009.

Jerry Menikoff,

Director, Office for Human Research Protections.

[FR Doc. E9–7782 Filed 4–6–09; 8:45 am]

BILLING CODE 4150–36–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Cross-Site Evaluation of the Infant Adoption Awareness Training Program for Projects Initially Funded in Fiscal Year 2006.

OMB No.: New Collection.

Description: The Administration for Children and Families (ACF), Children's Bureau (CB), will conduct the Cross-Site Evaluation of the Infant Adoption Awareness Training Program (IAATP). Title XII, Subtitle A, of the Children's Health Act of 2000 (CHA) authorizes the Department of Health and Human Services to make Infant Adoption Awareness Training grants available to national, regional, and local adoption organizations for the purposes of developing and implementing programs that train the staff of public and non-profit private health service organizations to provide adoption information and referrals to pregnant women on an equal basis with all other courses of action included in non-directive counseling of pregnant women. Participants in the training include individuals who provide pregnancy or adoption information and those who will provide such services after receiving the training, with Title X (relating to voluntary family planning projects), Section 330 (relating to community health centers, migrant health centers, and centers serving homeless individuals and residents of public housing), and CHA-funded school-based health centers, receiving priority to receive the training. A total of six organizations were awarded IAATP funding in 2006.

Section 1201(a)(2)(A) of the IAATP legislation requires grantees to develop and deliver trainings that are consistent with the Best Practice Guidelines for Infant Adoption Awareness Training. The IAATP guidelines address training goals, basic skills, curriculum and training structure. A complete description of the guidelines is available at *http://www.acf.hhs.gov/programs/cb/programs_fund/discretionary/iaatp.htm*.

In addition, grantees are required to conduct local evaluation of program outcomes and participate in the national evaluation of the extent to which IAATP training objectives are met. The Infant Adoption Awareness Training Program: Trainee Survey is the primary data collection instrument for the national cross-site evaluation. Respondents will complete the survey prior to receiving training and approximately 90 days after the training to assess the extent to which trainees demonstrate sustained gains in their knowledge about adoption, and to determine the impact of the training on their subsequent work with pregnant women.

1. Do health care workers who participate in the IAATP training: Demonstrate enhanced knowledge, attitudes, skills, and behaviors with respect to adoption counseling following completion of the program? Provide adoption information to pregnant women on an equal basis with other pregnancy planning options? Demonstrate enhanced awareness of community adoption-related resources and refer expectant mothers to them as needed?

2. Are trainees more confident about discussing all three pregnancy planning options (parenting, abortion, and adoption) in a non-directive counseling style than they were prior to participating in the training? Cross-site evaluation data will be collected on an annual basis throughout the five-year funding period. Pre-test and follow-up versions of the survey are expected to require approximately 10 to 15 minutes to complete. Estimated response time for the follow-up survey includes time for respondents to access the Web-based survey, complete the survey online, and electronically submit the survey. Respondents will not need to implement a recordkeeping system or compile source data in order to complete the survey. Where possible, fields in the follow-up version of the survey will be pre-filled with static data from the respondents pre-test (*e.g.*, demographics, agency type) in order to further expedite completion of the survey and minimize respondent burden.

Respondents: Infant Adoption Awareness Program Trainees.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
IAATP: Trainee Survey Pre-Test Administration	1,200	1	0.15	180
IAATP: Trainee Survey Follow-Up Administration	1,200	1	0.10	120

Estimated Total Annual Burden Hours: 300.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded 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. E-mail address: *infocollection@acf.hhs.gov*. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: April 2, 2009.

Janean Chambers,

Reports Clearance Officer.

[FR Doc. E9–7841 Filed 4–6–09; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-09–08BJ]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov*. Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

A Study of Primary and Secondary Prevention Behaviors Practiced Among Five-Year Survivors of Colorectal Cancer—New—National Center for Chronic Disease Prevention and Control (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Colorectal cancer (CRC) is the third most prevalent cancer and the second leading cause of cancer death in both men and women in the United States. In 2004, there were an estimated 145,083 new cases of colorectal cancer diagnosed and 53,580 deaths. However, the five-year relative survival rates of patients diagnosed with CRC have been steadily increasing since 1975 and there are now over one million CRC survivors in the U.S.

Despite improved survival rates, CRC survivors are at an elevated risk for cancer recurrence, second primary cancers, and other health problems after being treated for cancer. Research evidence suggests that these elevated risks can be mitigated by healthy lifestyle practices and by undergoing regular medical follow-up and cancer screenings, however, little is known about the factors that motivate or hinder the adoption of recommended cancer prevention and screening behaviors in this population.

CDC proposes to conduct a survey of five-year CRC survivors to collect information about knowledge, attitudes, psychosocial factors, health status and behaviors, and utilization of health care services including screening services. Potential survey respondents will be identified through California Cancer Registry records. Each physician associated with one or more CRC patients will be responsible for reviewing a customized list of names to identify patients who should not be contacted for recruitment into the study. Following receipt of physician permission to contact potential participants, and receipt of participant consent, 1,000 respondents will complete a survey of health behaviors. Approximately 900 respondents are expected to complete a self-administered survey that will be delivered and returned by mail, and 100 respondents are expected to complete the survey by computer-assisted telephone interview, in response to a follow-up call from study staff. OMB clearance is being requested for one year of data collection.

Findings from this study will help guide future policies, programs, and interventions developed to enhance and improve the long-term health and well being of cancer survivors.

There are no costs to respondents except the time to complete the survey. The total estimated burden hours are 1,095.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Physicians	List of Potential Study Participants	1,950	1	13/60	423

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
CRC Survivors	Script for CATI Follow-up	100	1	3/60	5
	Survey of Health Behaviors	1,000	1	40/60	667

Dated: April 1, 2009.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E9–7789 Filed 4–6–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

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

Proposed Project: 2010 National Survey on Drug Use and Health—(OMB No. 0930–0110)—Revision

The National Survey on Drug Use and Health (NSDUH) is a survey of the civilian, non-institutionalized population of the United States 12 years old and older. The data are used to determine the prevalence of use of tobacco products, alcohol, illicit substances, and illicit use of prescription drugs. The results are used by SAMHSA, ONDCP, Federal government agencies, and other organizations and researchers to establish policy, direct program activities, and better allocate resources.

The 2010 NSDUH will continue conducting a follow-up clinical interview with a subsample of approximately 500 respondents. The design of this study is based on the recommendations from a panel of expert consultants convened by the Center for Mental Health Services (CMHS), SAMHSA, to discuss mental health surveillance data collection strategies. The goal is to create a statistically sound measure that may be used to estimate the prevalence of Serious Mental Illness (SMI) among adults (age 18+).

For the 2010 NSDUH, no questionnaire changes are proposed.

As with all NSDUH/NHSDA surveys conducted since 1999, the sample size of the survey for 2010 will be sufficient to permit prevalence estimates for each of the fifty states and the District of Columbia. The total annual burden estimate is shown below:

	Number of responses	Responses per respondent	Average burden per response (hr.)	Total burden (hrs)
Household Screening	190,800	1	.083	15,836
Interview	67,500	1	1.0	67,500
Clinical Follow-up Interview	500	1	1.0	500
Screening Verification	5,400	1	0.067	362
Interview Verification	10,125	1	0.067	678
	190,800	.....	.....	84,876

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 7–1044, One Choke Cherry Road, Rockville, MD 20857 *and* e-mail her a copy at *summer.king@samhsa.hhs.gov*. Written comments should be received within 60 days of this notice.

Dated: April 1, 2009.

Elaine Parry,

Director, Office of Program Services.

[FR Doc. E9–7788 Filed 4–6–09; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Agency Information Collection Activities; Proposed Collection; Comment Request; Semi-Annual and Final Reporting Requirements for Older Americans Act Title IV Discretionary Grant Program

AGENCY: Administration on Aging, HHS.

ACTION: Notice.

SUMMARY: The Administration on Aging (AoA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information

collection requirements relating to the continuation of an existing collection for Performance Progress Reports for Older Americans Act Title IV grantees.

DATES: Submit written or electronic comments on the collection of information by May 31, 2009.

ADDRESSES: Submit electronic comments on the collection of information to: *lori.stalbaum@aoa.hhs.gov*.

Submit written comments on the collection of information to Lori Stalbaum, Administration on Aging, Washington, DC 20201 or by fax to Lori Stalbaum at 202–357–3469.

FOR FURTHER INFORMATION CONTACT: Lori Stalbaum at 202–357–3452 or *lori.stalbaum@aoa.hhs.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency request or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, AoA is publishing notice of the proposed collection of information set forth in this document. With respect to the following collection of information, AoA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of AoA's functions, including whether the information will have practical utility; (2) the accuracy of AoA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

The Administration on Aging (AoA) plans to continue an existing approved collection of information for semi-annual and final reports pursuant to requirements in Title IV of the Older Americans Act. Through its Title IV program, AoA supports projects for the purpose of developing and testing new knowledge and program innovations with the potential for contributing to the well-being of older Americans. Deliverables required by AoA of all Title IV grantees are semi-annual and final reports, as provided for in the Department of Health and Human Services regulations, 45CFR Part 74, Section 74.51. These Title IV grantee performance reporting requirements can be found on AoA's Web site at *http://www.aoa.gov/AoARoot/Grants/Reporting_Requirements/docs/FinalReportHandbook.doc*. AoA estimates the burden of this collection of information as follows: *Frequency:* Semi-annually with the Final report taking the place of the semi-annual report at the end of the final year of the grant. *Respondents:* States, public agencies, private nonprofit agencies, institutions of higher education, and organizations including tribal organizations. *Estimated Number of Responses:* 600. *Total Estimated Burden Hours:* 12,000.

Dated: April 1, 2009.

Edwin L. Walker,

Acting Assistant Secretary for Aging.

[FR Doc. E9–7847 Filed 4–6–09; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

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

Proposed Project: National Evaluation of the Comprehensive Community Mental Health Services for Children and Their Families Program: Phase V (OMB No. 0930–0280)—Revision

The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Mental Health Services (CMHS), is responsible for the National Evaluation of the comprehensive Community Mental Health Services for Children and Their Families Program, which collects data on child mental health outcomes, family life, and service system development and performance. Data will be collected on 30 service systems and roughly 8,810 children and families.

The data collection for this evaluation will be conducted for a three-year period. The core of service system data will be collected twice (every 18 to 24 months) during the three-year evaluation period. A sustainability survey will be conducted in selected years. Service delivery and system variables of interest include the following: maturity of system of care development; adherence to the system of care program model; services received by youth and their families, and the costs of those services; and consumer service experience.

The length of time that individual families will participate in the study ranges from 18 to 36 months depending on when they enter the evaluation. Child and family outcomes of interest will be collected at intake and during subsequent follow-up interviews at six-month intervals. Client service experience information is collected at these follow-up interviews. Measures included in an outcome interview are determined by the type of assessment (intake or follow-up), child's age, and whether the respondent is the caregiver or a youth.

The outcome measures include the following: Child symptomatology and functioning, family functioning, material resources, and caregiver strain. The caregiver interview package includes the Caregiver Information Questionnaire, Child Behavior Checklist, Behavioral and Emotional Rating Scale (BERS), Education Questionnaire, Columbia Impairment Questionnaire, Living Situations Questionnaire, Family Life Questionnaire, and Caregiver Strain Questionnaire at intake, and also

includes the Multi-service Sector Contacts Form, Culturally Competence and Service Provision Questionnaire and the Youth Services Survey (a national outcome measurement tool) at follow-up assessments. Caregivers of children under age 6 complete the Vineland Screener to assess development, and do not complete the BERS. The Youth Interview package includes the Youth Information Questionnaire, Revised Children's Manifest Anxiety Scale, Reynolds Depression Scale, BERS (youth version), Delinquency Survey, Substance Use Survey, GAIN–Quick: Substance Dependence Scale, and Youth Services Survey (youth version).

The evaluation also includes three special studies: (1) An evidence-based practices study that examines the effects of various factors on the implementation and use of evidence-based treatments and approaches in system of care communities; (2) A cultural and linguistic competence study that examines the extent to which the cultural and linguistic characteristics of communities influence program implementation and provider adaptation of evidence-based treatments, and provider service delivery decisions based on provider culture and language; and (3) An evaluation of the communities' use of reports produced by the national evaluation for continuous quality improvement. The national evaluation measures address the national outcome measures for mental health programs as currently established by SAMHSA.

Table 1 summarizes which national evaluation components are unchanged from the original 2006 submission and which are new or changed.

TABLE 1—STUDY COMPONENT AND INSTRUMENT REVISIONS FOR PHASE V RE-SUBMISSION

	New or changed for 2009 resubmission	No change	Nature of change
System of Care Assessment			
Site Visit Tables		X	
Interview Protocols		X	
Inter-Agency Collaboration Scale (IACS)		X	
Longitudinal Child and Family Outcome Study			
Caregiver Information Questionnaire (CIQ–I)	X		Question 39a skip pattern revised Question 39d list of medications updated.
Caregiver Information Questionnaire (CIQ–F)	X		Question 39a skip pattern revised Question 39d list of medications updated.
Caregiver Strain Questionnaire (CGSQ)		X	
Child Behavior Checklist (CBCL)/Child Behavior Checklist 1½–5 (CBCL 1½–5).		X	
Education Questionnaire—Revised (EQ–R)	X		Slight wording change to interviewer note and the term "day care" changed to "childcare".
Living Situations Questionnaire (LSQ)		X	
Family Life Questionnaire (FLQ)		X	
Behavioral and Emotional Rating Scale—Second Edition—Parent Rating Scale (BERS–2C).		X	
Columbia Impairment Scale (CIS)		X	
Vineland Screener (VS)		X	
Delinquency Survey—Revised (DS–R)		X	
Behavioral and Emotional Rating Scale—Second Edition, Youth Rating Scale (BERS–2Y).		X	
Gain-Quick Substance Related Issues (Gain Quick-R)		X	
Substance Use Survey—Revised (SUS–R)		X	
Revised Children's Manifest Anxiety Scales (RCMAS)		X	
Reynolds Adolescent Depression Scale—Second Edition (RADS–2)		X	
Youth Information Questionnaire (YIQ–I)		X	
Youth Information Questionnaire (YIQ–F)		X	
Service Experience Study			
Multi-Sector Service Contacts Questionnaire—Revised (MSSC–R)	X		Slight modification to Card 4 and Cards 6 and 7 are new.
Evidence-Based Practices Experience Measure (EBPEM)		X	
Cultural Competence and Service Provision Questionnaire (CCSP)		X	
Youth Services Survey for Families (YSS–F)		X	
Youth Services Survey (YSS)		X	
Services and Costs Study			
Flex Funds Data Dictionary	X		New.
Services and Costs Data Dictionary	X		New.
Sustainability Study			
Sustainability Survey		X	

TABLE 1—STUDY COMPONENT AND INSTRUMENT REVISIONS FOR PHASE V RE-SUBMISSION—Continued

	New or changed for 2009 resubmission	No change	Nature of change
Continuous Quality Improvement (CQI) Initiative Evaluation			
CQI Initiative Survey	X		New.
CQI Initiative Interview Guide	X		New.
Evidence-Based Practices Study			
System-level Implementation Factors Discussion Guide	X		New.
Service-level Implementation Factors Discussion Guide	X		New.
Consumer-level Implementation Factors Discussion Guide	X		New.
Cultural and Linguistic Competence Study			
CCIOSAS—Beneficiaries of Self-Assessment Findings Focus Group Guide—Staff and Partners.	X		New.
CCIOSAS—Beneficiaries of Self-Assessment Findings Focus Group Guide—Caregivers.	X		New.
CCIOSAS—Beneficiaries of Self-Assessment Findings Focus Group Guide—Youth.	X		New.
CCIOSAS—Participants in Self-Assessments Focus Group Guide—Staff and Partners.	X		New.
CCIOSAS—Participants in Self-Assessments Focus Group Guide—Caregivers.	X		New.
CCIOSAS—Participants in Self-Assessments Focus Group Guide—Youth.	X		New.
CCIOSAS—Users of Self-Assessment Findings Focus Group Guide—Staff and Partners.	X		New.
CCIOSAS—Users of Self-Assessment Findings Focus Group Guide—Caregivers.	X		New.
CCIOSAS—Users of Self-Assessment Findings Focus Group Guide—Youth.	X		New.
CCIOSAS—Telephone Interview—Staff and Partners	X		New.
CCEBPS—Managers of EBP Process Focus Group Guide	X		New.
CCEBPS—Providers of EBP Focus Group Guide	X		New.
CCEBPS—Family Focus Group Guide	X		New.
CCEBPS—Youth Focus Group Guide	X		New.
CCEBPS—Telephone Interview	X		New.

Internet-based technology will be used for data entry and management, and for collecting data using Web-based surveys. The average annual respondent burden, with detail provided about burden contributed by specific measures, is estimated below. The estimate reflects the average number of respondents in each respondent category, the average number of responses per respondent per year, the average length of time it will take for each response, and the total average annual burden for each category of respondent and for all categories of respondents combined.

Note: Total burden is annualized over a 3-year period.

TABLE 2—DETAILED ESTIMATE OF RESPONDENT BURDEN

Instrument	Respondent	Number of respondents	Total average number of responses per respondent	Hours per response	Total burden hours	3-year average annual burden hours
System of Care Assessment						
Interview Guides and Data Collection Forms	Key site informants	[1] 630	1	1.00	630	210
Interagency Collaboration Scale (IACS)	Key site informants	630	1	0.13	82	27
Longitudinal Child and Family Outcome Study						
Caregiver Information Questionnaire (CIQ–IC)	Caregiver	[2] 8,810	1	0.283	2,493	831
Caregiver Information Questionnaire Followup (CIQ–FC).	Caregiver	8,810	2	0.200	3,524	1,175
Caregiver Strain Questionnaire (CGSQ)	Caregiver	8,810	[3] 3	0.167	4,414	1,471
Child Behavior Checklist (CBCL)/Child Behavior Checklist 1½–5 (CBCL 1½–5).	Caregiver	8,810	3	0.333	8,801	2,934
Education Questionnaire—Revised (EQ–R)	Caregiver	8,810	3	0.333	8,801	2,934
Living Situations Questionnaire (LSQ)	Caregiver	8,810	3	0.083	2,194	731

TABLE 2—DETAILED ESTIMATE OF RESPONDENT BURDEN—Continued

Instrument	Respondent	Number of respondents	Total average number of responses per respondent	Hours per response	Total burden hours	3-year average annual burden hours
The Family Life Questionnaire (FLQ)	Caregiver	8,810	3	0.050	1,322	441
Behavioral and Emotional Rating Scale—Second Edition, Parent Rating Scale (BERS–2C).	Caregiver	[4] 7,488	3	0.167	4,193	1,398
Columbia Impairment Scale (CIS)	Caregiver	[5] 8,369	3	0.083	2,084	695
The Vineland Screener (VS)	Caregiver	[6] 1,321	3	0.250	330	110
Delinquency Survey—Revised (DS–R)	Youth	[7] 5,286	3	0.167	2,648	883
Behavioral and Emotional Rating Scale—Second Edition, Youth Rating Scale (BERS–2Y).	Youth	5,286	3	0.167	2,648	883
Gain-Quick Substance Related Issues (Gain Quick-R).	Youth	5,286	3	0.083	1,316	439
Substance Use Survey—Revised (SUS–R)	Youth	5,286	3	0.100	1,586	529
Revised Children's Manifest Anxiety Scales (RCMAS).	Youth	5,286	3	0.050	793	264
Reynolds Adolescent Depression Scale—Second Edition (RADS–2).	Youth	5,286	3	0.050	793	264
Youth information Questionnaire—Baseline (YIQ–I).	Youth	5,286	1	0.167	883	294
Youth information Questionnaire—Follow-up (YIQ–F).	Youth	5,286	2	0.167	1,766	589
Service Experience Study						
Multi-Sector Service Contacts—Revised (MSSC–R).	Caregiver	8,810	[8] 2	0.250	4,405	1,468
Evidence-Based Practice Measure (EBPEM)	Caregiver	8,810	2	0.167	2,943	981
Cultural Competence and Service Provision Questionnaire (CCSP).	Caregiver	8,810	2	0.167	2,943	981
Youth Services Survey—Family (YSS–F)	Caregiver	8,810	2	0.117	2,062	687
Youth Services Survey (YSS)	Youth	5,286	2	0.083	877	292
Services and Costs Study						
Flex Funds Data Dictionary	Local staff compiling/entering data.	[9] 2,670	[10] 3	.033	218	73
Services and Costs Data Dictionary	Local staff compiling/entering data.	[11] 10,680	[12] 100	.033	29,073	9,691
Sustainability Study						
Sustainability Survey	Caregiver	[13] 52	2	0.75	78	26
Sustainability Survey	Provider/Administrator	156	2	0.75	234	78
Continuous Quality Improvement (CQI) Initiative Evaluation						
CQI Initiative Survey	Key community staff	150	1	0.5	75	25
CQI Initiative Interview Guide	Key community staff	50	1	1.0	50	17
Evidence-Based Practices Study						
System-level Implementation Factors Discussion Guide.	SOC leadership team member.	90	1	0.75	68	23
Service-level Implementation Factors Discussion Guide.	Provider	60	1	0.75	45	15
Consumer-level Implementation Factors Discussion Guide.	Caregivers	30	1	0.5	15	5
Cultural and Linguistic Competence Study						
CCIOSAS—Beneficiaries of Self-Assessment Findings Focus Group Guide.	Provider	40	1	1.0	40	13
CCIOSAS—Beneficiaries of Self-Assessment Findings Focus Group Guide.	Administrators/Managers.	20	1	1.5	30	10
CCIOSAS—Beneficiaries of Self-Assessment Findings Focus Group Guide.	Caregivers	40	1	.75	30	10
CCIOSAS—Beneficiaries of Self-Assessment Findings Focus Group Guide.	Youth	40	1	.75	30	10
CCIOSAS—Participants in Self-Assessments Focus Group Guide.	Provider	40	1	1.0	40	13

TABLE 2—DETAILED ESTIMATE OF RESPONDENT BURDEN—Continued

Instrument	Respondent	Number of respondents	Total average number of responses per respondent	Hours per response	Total burden hours	3-year average annual burden hours
CCIOSAS—Participants in Self-Assessments Focus Group Guide.	Administrators/Managers.	20	1	1.5	30	10
CCIOSAS—Participants in Self-Assessments Focus Group Guide.	Caregivers	16	1	.75	12	4
CCIOSAS—Participants in Self-Assessments Focus Group Guide.	Youth	16	1	.75	12	4
CCIOSAS—Users of Self-Assessment Findings Focus Group Guide.	Provider	40	1	1.0	40	13
CCIOSAS—Users of Self-Assessment Findings Focus Group Guide.	Administrators/Managers.	20	1	1.5	30	10
CCIOSAS—Users of Self-Assessment Findings Focus Group Guide.	Caregivers	16	1	.75	12	4
CCIOSAS—Users of Self-Assessment Findings Focus Group Guide.	Youth	16	1	.75	12	4
CCIOSAS—Telephone Interview	Providers	2	1	1.0	2	0.67
CCIOSAS—Telephone Interview	Administrators/Managers.	3	1	1.0	3	1
CCEBPS—Managers of EBP/PBE Interventions Focus Group Guide.	Providers	16	1	1.0	16	5
CCEBPS—Managers of EBP/PBE Interventions Focus Group Guide.	Administrators/Managers.	20	1	1.5	30	10
CCEBPS—Providers of EBP/PBE Interventions Focus Group Guide.	Providers	40	1	1.0	40	13
CCEBPS—Family Focus Group Guide	Caregivers	40	1	.75	30	10
CCEBPS—Youth Focus Group Guide	Youth	40	1	.75	30	10
CCEBPS—Telephone Interview Guide	Providers	2	1	1.0	2	0.67
CCEBPS—Telephone Interview Guide	Administrators/Managers.	3	1	1.0	3	1

TABLE 3—SUMMARY ESTIMATE OF RESPONDENT BURDEN

[Summary of annualized burden estimates for 3 years]

	Number of distinct respondents	Number of responses per respondent	Average burden per response (hours)	Total annual burden (hours)
Caregivers	8,810	2.46	2.36	51,147
Youth	5,286	2.56	0.99	13,397
Community staff	870	72.22	0.86	54,035
Total Summary	14,996	6.54		118,579
Total Annual Average Summary	4,989	2.18		39,526

[1] An average of 21 stakeholders in up to 30 grant communities will complete the System of Care Assessment interview. These stakeholders will include site administrative staff, providers, agency representatives, family representatives, and youth.

[2] Number of respondents across 30 grantees. Average based on a 5 percent attrition rate at each data collection point.

[3] Average number of responses per respondent is a weighted average of the possible numbers of responses per respondent for communities beginning data collection in FY2007 and FY2008. The maximum numbers of responses per respondent are for 24 communities beginning data collection in FY2007, 1 follow-up data collection point remaining for children recruited in year 2 (of grant community funding), 3 for children recruited in year 3, 4 for children recruited in year 4, and 4 for children recruited in year 5. The maximum numbers of responses per respondent are, for 6 communities beginning data collection in FY2008, 3 follow-up data collection points remaining for children recruited in year 2 (of grant community funding), 5 for children recruited in year 3, 6 for children recruited in year 4, and 4 for children recruited in year 5.

[4] Approximate number of caregivers with children over age 5, based on Phase V data submitted as of 12/08.

[5] Approximate number of caregivers with children 3 and older, based on Phase V data submitted as of 12/08.

[6] Approximate number of caregivers with children 5 or under, based on Phase V data submitted as of 12/08.

[7] Based on Phase III and IV finding that approximately 60 percent of the children in the evaluation were 11 years old or older.

[8] Respondents only complete Service Experience Study measures at follow-up points. See Footnote #3 for the explanation about the average number of responses per respondent.

[9] Staff will enter data on flexible funds expenditures into a Web-based application or will recode existing data on flexible funds expenditures to match the Flex Funds Data Dictionary format. Each community will use flexible funds expenditures on average for approximately one-quarter of the estimated 356 children/youth enrolled, suggesting a total of 89 children/youth will receive services from flexible funds per community. Thus, there will be data entered for 89*30 = 2,670 children/youth using the Flex Funds Data Dictionary.

[10] Assumes that three expenditures, on average, will be spent on each child/youth receiving flexible fund benefits.

[11] Staff will collect paper-based forms from agencies and enter them into a Web-based application or will extract data from agencies' existing data systems. Staff will recode data to match the Services and Costs Data Dictionary format. Service and costs records will be compiled for all 356*30=10,680 children/youth enrolled.

[12] Assumes that each child/youth will have 100 service episodes, on average, during his/her time in a system of care.

[13] This survey will be administered at 5 sites funded in 2006, 25 sites funded in 2005, 2 sites funded in 2000, and 20 sites funded in 1999.

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 7–1044, One Choke Cherry Road, Rockville, MD 20857 and e-mail her a copy at *summer.king@samhsa.hhs.gov*. Written comments should be received within 60 days of this notice.

Dated: April 1, 2009.

Elaine Parry,

Director, Office of Program Services.

[FR Doc. E9–7779 Filed 4–6–09; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Building Strong Families (BSF) Demonstration and Evaluation Impact Study Second Follow-up.

OMB No.: 0970–0304.

Description: The Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), anticipates continuing data collection for the 15-month follow-up surveys of the Building Strong Families (BSF) Demonstration and Evaluation. Data collection will continue for an additional 6 months beyond the current date of expiration (July 31, 2009).

This data collection is a part of the BSF evaluation, which is an important opportunity to learn if well-designed interventions can help low-income couples develop the knowledge and relationship skills that research has shown are associated with healthy marriages. The BSF evaluation uses an experimental design that randomly assigns couples who volunteer to participate in BSF programs to a program or control group.

Materials for the original 15-month data collection effort, previously submitted to OMB, covered impact and implementation data collections. Data collection for the impact study is complete. ACF anticipates collecting data for an additional 6 months in order to complete data collection for the entire sample of participants.

Respondents: Couples enrolled in the BSF evaluation, including program and control groups.

ANNUAL BURDEN ESTIMATES

Instrument	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Estimated annual burden hours
15-month telephone survey (female partner)	1,434	1	.91	1,305
15-month telephone survey (male partner)	1,434	1	.83	1,190

Total Burden Hours: 2,495.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *OPREinfocollection@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: March 30, 2009.

Brendan C. Kelly,

OPRE Reports Clearance Officer.

[FR Doc. E9–7501 Filed 4–6–09; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects:

Title: Head Start Grant Application and Budget Instruments.

OMB No.: 0970–0207.

Description: The Office of Head Start is proposing to renew, without changes, the Head Start Grant Application and Budget Instrument, which standardizes the grant application information that is requested from all Head Start and Early Head Start grantees applying for continuation grants. The application and budget forms are available in a password-protected, Web-based system. Completed applications can be transmitted electronically to Regional and Central Offices. The Administration for Children and Families believes that this application form makes the process of applying for Head Start program grants more efficient for applicants.

Respondents: Head Start and Early Head Start grantees.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
HS grant and budget instrument	1,600	1	33	52,800
Estimated Total Annual Burden Hours:				52,800

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded 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. E-mail address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: April 1, 2009.

Janean Chambers,

Reports Clearance Officer.

[FR Doc. E9–7705 Filed 4–6–09; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0148]

Generic New Animal Drug User Fee Rates and Payment Procedures for Fiscal Year 2009

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the rates and payment procedures for fiscal year (FY) 2009 generic new animal drug user fees. The Federal Food, Drug, and Cosmetic Act (the act), as amended by the Animal Generic Drug User Fee Act of 2008 (AGDUFA), authorizes FDA to collect user fees for certain abbreviated applications for a generic new animal drug, on certain generic new animal drug products, and on certain sponsors of such abbreviated applications for generic new animal drugs and/or investigational submissions for generic new animal drugs. This notice establishes the fee rates for FY 2009.

For FY 2009, the generic new animal drug user fee rates are: $41,400 for each abbreviated application for a generic new animal drug; $3,005 for each generic new animal drug product; $56,350 for each generic new animal drug sponsor paying 100 percent of the sponsor fee; $42,265 for each generic new animal drug sponsor paying 75 percent of the sponsor fee; and $28,175 for a generic new animal drug sponsor paying 50 percent of the sponsor fee. AGDUFA required FDA to issue invoices for FY 2009 product and sponsor fees by December 31, 2008, or within 30 days of enactment of an appropriation for these fees, whichever is later. The appropriations were enacted on March 11, 2009. These fees will be due and payable within 30 days of the issuance of the invoices. The application fee rates are effective for all abbreviated applications for generic new animal drugs submitted on or after July 1, 2008, and will remain in effect through September 30, 2009.

FOR FURTHER INFORMATION CONTACT: Visit the FDA Web site at *http://www.fda.gov/oc/adufa/agdufamain.html* or contact Bryan Walsh, Center for Veterinary Medicine (HFV–10), Food and Drug Administration, 7529 Standish Pl., Rockville, MD 20855, 240–276–9730. For general questions, you may also e-mail the Center for Veterinary Medicine (CVM) at: *cvmagdufa@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Section 741 of the act (21 U.S.C. 379j–21) establishes three different kinds of user fees: (1) Fees for certain types of abbreviated applications for generic new animal drugs, (2) annual fees for certain generic new animal drug products, and (3) annual fees for certain sponsors of abbreviated applications for generic new animal drugs and/or investigational submissions for generic new animal drugs (21 U.S.C. 379j–21(a)). When certain conditions are met, FDA will waive or reduce fees for generic new animal drugs intended solely to provide for a minor use or minor species indication (21 U.S.C. 379j–21(d)).

For FY 2009 through FY 2013, the act establishes aggregate yearly base revenue amounts for each of these fee categories. Base revenue amounts established for years after FY 2009 are subject to adjustment for workload. Fees for applications, products, and sponsors are to be established each year by FDA so that the revenue for each fee category will approximate the level established in the statute, after the level has been adjusted for workload.

II. Revenue Amount for FY 2009

A. Statutory Fee Revenue Amounts

AGDUFA (Title II of Public Law 110–316, signed by the President on August 14, 2008) specifies that the aggregate revenue amount for FY 2009 for abbreviated application fees is $1,449,000 and the other two generic new animal drug user fee categories, annual product fees and annual sponsor fees, are $1,691,000 each, before any adjustment for workload is made (see 21 U.S.C. 379j–21(b)).

B. Inflation Adjustment to Fee Revenue Amount

The amounts established in AGDUFA for each year for FY 2009 through FY 2013 include an inflation adjustment, so no further inflation adjustment is required.

C. Workload Adjustment Fee Revenue Amount

For each FY beginning after FY 2009, AGDUFA provides that statutory fee revenue amounts shall be further adjusted to reflect changes in review workload (21 U.S.C. 379j–21(c)(1)). No workload adjustment is to be made in fee revenue amounts for FY 2009.

III. Abbreviated Application Fee Calculations for FY 2009

The term ''abbreviated application for a generic new animal drug'' is defined in 21 U.S.C. 379j–21(k)(1).

A. Application Fee Revenues and Numbers of Fee-Paying Applications

The application fee must be paid for abbreviated applications for generic new animal drugs that are subject to fees under AGDUFA and that are submitted on or after July 1, 2008. The application fees are to be set so that they will generate $1,449,000 in fee revenue for FY 2009. This is the amount set out in the statute and no adjustments to it are required for FY 2009.

To set fees for abbreviated applications for generic new animal drugs to realize $1,449,000, FDA must first make some assumptions about the number of fee-paying abbreviated applications it will receive over the 15 months from July 1, 2008, through September 30, 2009.

The agency knows the number of such applications that have been submitted in previous years. That number

fluctuates significantly from year to year. FDA is assuming that the number of abbreviated applications that will pay fees in FY 2009 will equal the average number of submissions over the 4 most recent years. This may not fully account for possible year to year fluctuations in numbers of fee-paying applications, but FDA believes that this is a reasonable approach after about 5 years of experience with other user fee programs. Further, because the imposition of a fee may reduce somewhat the number of abbreviated applications submitted, FDA will use a 12-month average estimate in estimating the number of abbreviated applications that will be subject to and pay fees in the 15-month period from July 1, 2008, through September 30, 2009.

Over the past 4 years, the average number of abbreviated applications for generic new animal drugs that would have been subject to the fee was 38.75, including the number for the most recent year, which is estimated at 40. FDA will also assume that 10 percent of these applications, or 3.875, may be subject to fee waivers or reduction based on indications solely for minor use or minor species.

Thus, for FY 2009, FDA estimates receipt of 34.55 (38.75 minus 3.875) fee-paying abbreviated applications.

B. Fee Rates for FY 2009

FDA must set the fee rates for FY 2009 so that the estimated 35 abbreviated applications that pay the fee will generate a total of $1,449,000. To generate this amount, the fee for an animal drug application, rounded to the nearest hundred dollars, will have to be $41,400.

IV. Generic Product Fee Calculations for FY 2009

A. Product Fee Revenues and Numbers of Fee-Paying Products

The generic new animal drug product fee (also referred to as the product fee) must be paid annually by the person named as the applicant in an abbreviated application for a generic new animal drug or a supplemental abbreviated application for a generic new animal drug product submitted for listing under section 510 of the act (21 U.S.C. 360), and who had an abbreviated application or a supplemental abbreviated application for a generic new animal drug product pending at FDA after September 1, 2008 (see 21 U.S.C. 379j–21(a)(2)). The term ''generic new animal drug product'' means each specific strength or potency of a particular active ingredient or ingredients in final dosage form marketed by a particular manufacturer or distributor, which is uniquely identified by the labeler code and product code portions of the national drug code, and for which an abbreviated application for a generic new animal drug or supplemental abbreviated application for a generic new animal drug has been approved (21 U.S.C. 379j–21(k)(6)). The product fees are to be set so that they will generate $1,691,000 in fee revenue for FY 2009. This is the amount set out in the statute and no further adjustments are required for FY 2009.

To set generic new animal drug product fees to realize $1,691,000, FDA must make some assumptions about the number of products for which these fees will be paid in FY 2009. FDA developed data on all generic new animal drug products that have been submitted for listing under section 510 of the act, and matched this to the list of all persons who FDA estimated would have an abbreviated application for a generic new animal drug or supplemental abbreviated application pending after September 1, 2008. FDA estimates there is a total of 626 products submitted for listing by persons who had an abbreviated application for a generic new animal drug or supplemental abbreviated application for a generic new animal drug pending after September 1, 2008. Based on this, FDA believes that a total of 626 products will be subject to this fee in FY 2009.

In estimating the fee revenue to be generated by generic new animal drug product fees in FY 2009, FDA is assuming that 10 percent of the products invoiced, or 63, will not pay fees in FY 2009 due to fee waivers and reductions. Based on experience with other user fee programs and the first 5 years of the Animal Drug User Fee Act program (ADUFA), FDA believes that this is a reasonable basis for estimating the number of fee-paying products in FY 2009.

Accordingly, the agency estimates that a total of 563 (626 minus 63) products will be subject to product fees in FY 2009.

B. Product Fee Rates for FY 2009

FDA must set the fee rates for FY 2009 so that the estimated 563 products that pay fees will generate a total of $1,691,000. To generate this amount will require the fee for a generic new animal drug product, rounded to the nearest $5, to be $3,005.

V. Generic New Animal Drug Sponsor Fee Calculations for FY 2009

A. Sponsor Fee Revenues and Numbers of Fee-Paying Sponsors

The generic new animal drug sponsor fee (also referred to as the sponsor fee) must be paid annually by each person who: (1) Is named as the applicant in an abbreviated application for a generic new animal drug, that has not been withdrawn by the applicant and for which approval has not been withdrawn by the secretary, or has submitted an investigational submission for a generic new animal drug that has not been terminated or otherwise rendered inactive and (2) had an abbreviated application for a generic new animal drug, supplemental abbreviated application for a generic new animal drug, or investigational submission for a generic new animal drug pending at FDA after September 1, 2008 (see 21 U.S.C. 379j–21(k)(7) and 379j–21(a)(3)). A generic new animal drug sponsor is subject to only one such fee each fiscal year (see 21 U.S.C. 379j–21(a)(3)(B)). Applicants with more than 6 approved abbreviated applications will pay 100 percent of the sponsor fee, applicants with 2 to 6 approved abbreviated applications will pay 75 percent of the sponsor fee, and applicants with 1 or fewer approved abbreviated applications will pay 50 percent of the sponsor fee (see 21 U.S.C. 379j–21(a)(3)(B)). The sponsor fees are to be set so that they will generate $1,691,000 in fee revenue for FY 2009. This is the amount set out in the statute and no adjustments are required for FY 2009.

To set generic new animal drug sponsor fees to realize $1,691,000, FDA must make some assumptions about the number of sponsors who will pay these fees in FY 2009. Based on the number of firms that would have met this definition in each of the past 5 years, FDA estimates that in FY 2009 11 sponsors will pay 100 percent (full) fees, 11 sponsors will pay 75 percent fees, and 28 sponsors will pay 50 percent fees. That totals the equivalent of 33.25 full sponsor fees (11 times 100 percent or 11, plus 11 times 75 percent or 8.25, plus 28 times 50 percent or 14).

FDA estimates that about 10 percent of all of these sponsors, or 3.25, may qualify for a minor use/minor species waiver or reduction.

Accordingly, the agency estimates that the equivalent of 30 full sponsor fees (33.25 minus 3.25) are likely to be paid in FY 2009.

B. Sponsor Fee Rates for FY 2009

FDA must set the fee rates for FY 2009 so that the estimated equivalent of 30

full sponsor fees will generate a total of $1,691,000. To generate this amount will require the 100 percent fee for a generic new animal drug sponsor, rounded to the nearest $50, to be $56,350. Accordingly, the fee for those paying 75 percent of the full sponsor fee, rounded to the nearest $5, will be $42,265, and the fee for those paying 50 percent of the full sponsor fee will be $28,175.

VI. Fee Schedule for FY 2009

The fee rates for FY 2009 are summarized in table 1 of this document.

TABLE 1.—FY 2009 FEE RATES

Generic New Animal Drug User Fee Category	Fee Rate for FY 2009
Abbreviated Application for Generic New Animal Drug Fee	$41,400
Generic New Animal Drug Product Fee	$3,005
100 Percent Generic New Animal Drug Sponsor Fee*	$56,350
75 Percent Generic New Animal Drug Sponsor Fee*	$42,265
50 Percent Generic New Animal Drug Sponsor Fee*	$28,175

* An animal drug sponsor is subject to only one such fee each fiscal year.

VII. Procedures for Paying the FY 2009 Abbreviated New Animal Drug Application Fees

A. Abbreviated Application Fees and Payment Instructions

The appropriate application fee established in the new fee schedule must be paid for an abbreviated new animal drug application subject to fees under AGDUFA that was submitted on or after July 1, 2008. For those sponsors who have submitted an abbreviated new animal drug application between July 1, 2008, and the publication date of this **Federal Register** notice, a cover sheet is not necessary, as the Food and Drug Administration will complete a cover sheet for you and invoice you accordingly. Payment must be made in U.S. currency by check, bank draft, or U.S. postal money order payable to the order of the Food and Drug Administration, by wire transfer, or by automatic clearing house (ACH) using Pay.gov. On your check, bank draft, or U.S. postal money order, please write your application's unique Payment Identification Number, beginning with the letters ''AG'', from the upper right-hand corner of your completed Animal Generic Drug User Fee Cover Sheet. Also write the FDA post office box number (P.O. Box 953877) on the enclosed check, bank draft, or money order. Your payment and a copy of the completed Animal Generic Drug User Fee Cover Sheet can be mailed to: Food and Drug Administration, P.O. Box 953877, St. Louis, MO, 63195–3877. If payment is made by wire transfer, send payment to U.S. Department of Treasury, TREAS, NYC, 33 Liberty St., New York, NY 10045, Account Name: Food and Drug Administration, Account Number: 75060099, Routing Number: 021030004, Swift Number: FRNYUS33.

If you prefer to send a check by a courier such as FEDEX or UPS, the courier may deliver the check and printed copy of the cover sheet to: US Bank, Attn: Government Lockbox 953877, 1005 Convention Plaza, St. Louis, MO 63101. (Note: This address is for courier delivery only. If you have any questions concerning courier delivery contact the US Bank at 314–418–4821. This phone number is only for questions about courier delivery.)

The tax identification number of the Food and Drug Administration is 530196965. (Note: In no case should the check for the fee be submitted to FDA with the application.)

It is helpful if the fee arrives at the bank at least a day or two before the abbreviated application arrives at FDA's Center for Veterinary Medicine. FDA records the official abbreviated application receipt date as the later of the following: The date the application was received by FDA's Center for Veterinary Medicine, or the date US Bank notifies FDA that your check in the full amount of the payment due has been received or when the U.S. Department of Treasury notifies FDA of payment. US Bank is required to notify FDA within 1 working day, using the Payment Identification Number described previously.

B. Application Cover Sheet Procedures

Step One—Create a user account and password. Log onto the AGDUFA Web site at *http://www.fda.gov/oc/adufa/agdufamain.html* and, under the ''Forms'' heading, click on the link ''User Fee Cover Sheet.'' For security reasons, each firm submitting an application will be assigned an organization identification number, and each user will also be required to set up a user account and password the first time you use this site. Online instructions will walk you through this process.

Step Two—Create an Animal Generic Drug User Fee Cover Sheet, transmit it to FDA, and print a copy. After logging into your account with your user name and password, complete the steps required to create an Animal Generic Drug User Fee Cover Sheet. One cover sheet is needed for each abbreviated animal drug application. Once you are satisfied that the data on the cover sheet is accurate and you have finalized the cover sheet, you will be able to transmit it electronically to FDA and you will be able to print a copy of your cover sheet showing your unique Payment Identification Number.

Step Three—Send the payment for your application as described in section VII.A of this document.

Step Four—Please submit your application and a copy of the completed Animal Generic Drug User Fee Cover Sheet to the following address: Food and Drug Administration, Center for Veterinary Medicine, Document Control Unit (HFV–199), 7500 Standish Pl., Rockville, MD 20855.

C. Product and Sponsor Fees

Thirty days after the March 11, 2009, enactment of appropriations for generic animal drug user fees, FDA will issue invoices and payment instructions for product and sponsor fees for FY 2009 using this fee schedule. Fees will be due and payable 30 days after the date the invoice is issued. FDA will issue invoices in November 2009 for any qualifying products and sponsors subject to fees received after this initial FY 2009 billing.

Dated: April 1, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9–7786 Filed 4–6–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0664]

Gastrointestinal Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Gastrointestinal Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on May 20, 2009, from 8 a.m. to 5 p.m.

Location: Hilton Washington DC/ Silver Spring, The Ballrooms, 8727 Colesville Rd., Silver Spring, MD. The hotel phone number is 301–589–5200.

Contact Person: Kristine T. Khuc, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5630 Fishers Lane (for express delivery, 5630 Fishers Lane, Rm. 1093), Rockville, MD 20857, 301–827–7001, FAX: 301–827–6776, e-mail: *Kristine.Khuc@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512538. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: The committee will discuss the safety and efficacy of new drug application (NDA) 22–336 REZONIC, (casopitant mesylate) tablets, GlaxoSmithKline, in combination with other antiemetic agents for the proposed indications of prevention of acute and delayed nausea and vomiting associated with initial and repeat courses of highly emetogenic chemotherapy (HEC), prevention of nausea and vomiting associated with initial and repeat courses of moderately emetogenic chemotherapy (MEC), and prevention of postoperative nausea and vomiting (PONV).

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/ohrms/dockets/ac/acmenu.htm*, click on the year 2009 and scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before May 6, 2009. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before April 28, 2009. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by April 29, 2009.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Kristine T. Khuc at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/oc/advisory/default.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: March 30, 2009.

Randall W. Lutter,

Deputy Commissioner for Policy.

[FR Doc. E9–7863 Filed 4–6–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel. Musculoskeletal Rehabilitation Sciences.

Date: April 14, 2009.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Daniel F. McDonald, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4110, MSC 7814, Bethesda, MD 20892, (301) 435–1215, *mcdonald@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel. RAID–NIH Roadmap Initiative.

Date: May 6–7, 2009.

Time: 9 a.m. to 10 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Steven J. Zullo, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5146, MSC 7849, Bethesda, MD 20892. 301–435–2810, *zullost@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844,

93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 27, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–7470 Filed 4–6–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0664]

Gastrointestinal Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Gastrointestinal Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on May 19, 2009, from 8 a.m. to 5 p.m.

Location: Hilton Washington DC/ Silver Spring, The Ballrooms, 8727 Colesville Rd., Silver Spring, MD. The hotel phone number is 301–589–5200.

Contact Person: Kristine T. Khuc, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5630 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001; FAX: 301–827–6776, e-mail: *Kristine.Khuc@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512538. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: The committee will discuss the safety and efficacy of new drug application (NDA) 21–761, SANVAR (vapreotide acetate) by Debiovision, Inc., for the proposed indication as an adjunctive therapy to endoscopic intervention for the control of acute esophageal bleeding as a result of portal hypertension.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/ohrms/dockets/ac/acmenu.htm*, click on the year 2009 and scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before May 5, 2009. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before April 27, 2009. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by April 28, 2009.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Kristine T. Khuc at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/oc/advisory/default.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: March 30, 2009.

Randall W. Lutter,

Deputy Commissioner for Policy.

[FR Doc. E9–7857 Filed 4–6–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Inherited Disease Research Access Committee.

Date: April 30–May 1, 2009.

Time: 7 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Admiral Fell Inn, 888 South Broadway, Baltimore, MD 21231.

Contact Person: Camilla E. Day, PhD, Scientific Review Officer, CIDR, National Human Genome Research Institute, National Institutes of Health, 5635 Fishers Lane, Suite 4075, Bethesda, MD 20892, 301–402–8837, *camilla.day@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: March 31, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–7716 Filed 4–6–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0664]

Circulatory System Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Circulatory System Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on April 23, 2009, from 8:30 a.m. to 5:30 p.m.

Location: Hilton Washington DC North/Gaithersburg, Salons A, B, and C, 620 Perry Pkwy., Gaithersburg, MD.

Contact Person: James Swink, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 240–276–4050, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512625. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: The committee will discuss, make recommendations, and vote on a premarket approval application, sponsored by Atritech, Inc., for the WATCHMAN® Left Atrial Appendage (LAA) Closure Technology. The WATCHMAN® device, a percutaneously placed permanent implant, is intended as an alternative to warfarin therapy for patients with non-valvular atrial fibrillation. The WATCHMAN® LAA Closure Technology is designed to prevent embolization of thrombi that may form in the left atrial appendage thereby preventing the occurrence of ischemic stroke and systemic thromboembolism.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/ohrms/dockets/ac/acmenu.htm*, click on the year 2009 and scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before April 16, 2009. Oral presentations from the public will be scheduled approximately 30 minutes at the beginning of committee deliberations and approximately 30 minutes near the end of the deliberations. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before April 8, 2009. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by April 9, 2009.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact AnnMarie Williams, Conference Management Staff, at 240–276–8932, at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/oc/advisory/default.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: March 30, 2009.

Randall W. Lutter,

Deputy Commissioner for Policy.

[FR Doc. E9–7726 Filed 4–6–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0146]

Sodium Shale Oil Sulfonate Eligibility for Inclusion in Monograph; Over-the-Counter Dandruff, Seborrheic Dermatitis, and Psoriasis Drug Products for Human Use; Request for Safety and Effectiveness Data

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of eligibility; request for data and information.

SUMMARY: As part of our ongoing review of over-the-counter (OTC) drug products, we (Food and Drug Administration (FDA)) are announcing a call-for-data for safety and effectiveness information for sodium shale oil sulfonate (SSOS), 0.5 to 2.0 percent, as a rinse-off treatment for dandruff. We have reviewed a time and extent application (TEA) for SSOS and determined that it is eligible for consideration in our OTC drug monograph system. We will evaluate the submitted data and information to determine whether SSOS can be generally recognized as safe and effective (GRASE) as an OTC rinse-off treatment for dandruff.

DATES: Submit data, information, and general comments by July 6, 2009.

ADDRESSES: You may submit comments, identified by Docket No. FDA–2009–N–0146, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

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

Written Submissions

Submit written submissions in the following ways:

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

To ensure more timely processing of comments, we are no longer accepting

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

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

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

FOR FURTHER INFORMATION CONTACT: Michael L. Chasey, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, MS 5411, Silver Spring, MD 20993, 301–796–2090.

SUPPLEMENTARY INFORMATION:

I. Eligibility of SSOS

In November 2007, we received a TEA (Ref. 1) requesting that SSOS be eligible for review under our OTC dandruff, seborrheic dermatitis, and psoriasis monograph (21 CFR part 358 subpart H). In February 2008, we received a supplement to the TEA, which included data and information clarifying some points in the TEA (Ref. 2). After reviewing the TEA and its supplement, we believe that it includes adequate data demonstrating that SSOS has been marketed for a material time and to a material extent as required by § 330.14 (21 CFR 330.14) (Ref. 3). SSOS-containing products have been marketed directly to consumers for over 5 continuous years in 26 countries, with an estimated 21 million dosage units marketed in 34 countries.

The applicant requested that SSOS be indicated for use to treat dandruff and psoriasis, in rinse-off and leave-on formulations. However, nearly all of the submitted marketing data concerns SSOS in rinse-off formulations for dandruff treatment. More marketing experience of SSOS in leave-on formulations for dandruff treatment would be necessary to find SSOS eligible in leave-on formulations. SSOS in leave-on formulations does not meet the ''material extent'' requirement of § 330.14(b)(2) and section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321). Only 2 to 4 million dosage units of SSOS in leave-on formulations have been sold, which is inadequate compared to the number of dosage units sold for other conditions found eligible for inclusion in the OTC drug monograph system via the TEA process (tens of millions). Therefore, we conclude that SSOS, 0.5 to 2.0 percent in rinse-off formulations for dandruff treatment, is eligible for inclusion in the OTC dandruff, seborrheic dermatitis, and psoriasis monograph.

II. Request for Data and Information

We invite all interested persons to submit data and information on the safety and effectiveness of SSOS in order for us to determine whether it is GRASE and not misbranded under recommended conditions of OTC use (see § 330.14(f)). The data submitted should include animal and human studies that meet current scientific standards. The TEA does not include an official or proposed United States Pharmacopeia-National Formulary (USP–NF) drug monograph. According to § 330.14(i), an official or proposed USP–NF monograph for each ingredient must also be included as part of the safety and effectiveness data for this ingredient.

III. Marketing Policy

Under § 330.14(h), any product containing SSOS may not be marketed as an OTC drug in the United States at this time unless it is the subject of an approved new drug application or abbreviated new drug application.

IV. References

The following references are on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. TEA for Sodium Shale Oil Sulfonate (SSOS) Submitted by DOW Pharmaceutical Sciences, Inc., dated November 30, 2007.

2. Supplement to the SSOS TEA Submitted by DOW Pharmaceutical Sciences, Inc., dated February 1, 2008.

3. FDA's evaluation of the TEA for SSOS.

Dated: March 24, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9–7766 Filed 4ndash;6–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF INTERIOR

National Park Service

60-Day Notice of Intention To Request Clearance of Collection of Information; Opportunity for Public Comment

AGENCY: Department of Interior, National Park Service.

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 and 5 CFR part 1320, Reporting and Record Keeping Requirements, the National Park Service (NPS) invites public comments on an extension of a currently approved collection of information (OMB #1024–0226).

DATES: Public comments on this Information Collection Request (ICR) will be accepted on or before June 8, 2009.

ADDRESSES: Send comments to: Charlie Stockman, Outdoor Recreation Planner, Rivers, Trails and Conservation Assistance Program, NPS, 1849 C St., NW., (2220), Washington, DC 20240; or via fax at 202/371–5179; or via e-mail at *Charlie_Stockman@nps.gov*. All responses to the Notice will be summarized and included in the request for the Office of Management and Budget (OMB) approval. All comments will become a matter of public record.

To Request a Draft of Proposed Collection of Information Contact: Charlie Stockman, NPS, 1849 C St., NW., (2220), Washington, DC 20005; or via phone at 202/354–6900; or via fax at 202/371–5179; or via e-mail at *Charlie_Stockman@nps.gov*. You are entitled to a copy of the entire ICR package free of charge once the package is submitted to OMB for review. You can access this ICR at *http://www.reginfo.gov/public/*.

SUPPLEMENTARY INFORMATION:

Title: National Park Service Partnership Assistance Programs GPRA Information Collection.

Form(s): None.

OMB Control Number: 1024–0226.

Expiration Date: 8/31/2009.

Type of Request: Extension of a currently approved collection of information.

Description of Need: The Government Performance and Results Act (GPRA) of 1995 (Pub. L. 103–62) and the National Park Service (NPS) Strategic Plan require that the NPS develop goals to improve program effectiveness and public accountability. GPRA also requires Federal agencies to prepare annual performance reports documenting the progress made toward achieving long-term goals. Surveys for the Rivers, Trails, and Conservation Assistance Program (RTCA) and the Federal Lands to Parks Program (FLP) will measure performance and suggest improvements towards these goals. Data from these studies are needed to meet the requirement of GPRA and the NPS Strategic Plan. The two programs are to meet Long-term Goal IIIb2. This goal states: 95% of communities served are satisfied with NPS partnership assistance in providing recreational conservation benefits on lands and waters. The NPS needs the information in these collections to assess the annual progress being made toward meeting Long-term Goal IIIb2 of the NPS Strategic Plan.

The proposed surveys will provide the NPS with data from its partners. Partners are those individuals or organizations that seek NPS assistance through these two programs. NPS will obtain critical information to determine if it's meeting the diverse needs of its constituency and how to respond to future changes. The information sought is not collected elsewhere by the Federal Government. The NPS needs this information to help evaluate and improve its partnership assistance programs. NPS' RTCA Program and FLP Program will conduct surveys to assess client satisfaction with the services received and to identify needed program improvements. The NPS goal in conducting these surveys is to use the information to identify areas of strength and weakness in its recreation and conservation assistance programs, to provide an information base for improving those programs, and to provide a required performance measurement (Goal IIIb2 of the National Park Service Strategic Plan) under GPRA. The obligation to respond is voluntary.

Automated Data Collection: The information will be collected primarily through the use of an electronic survey.

Description of respondents: This is a census survey of all principal cooperating organizations and agencies which have received substantial assistance from the Rivers, Trails and Conservation Assistance Program or the Federal Lands to Parks Program during the prior Fiscal Year (October 1 through September 30).

Estimated average number of responses: 150 per year.

Frequency of response: 1 per respondent.

Estimated average time burden per respondent: 10 minutes.

Estimated total annual reporting burden: 25 hours per year.

Comments are invited on: (1) The practical utility of the information being gathered; (2) the accuracy of the burden hour estimate; (3) ways to enhance the quality, utility, and clarity of the information being collected; and (4) ways to minimize the burden to respondents, including use of automated information collection techniques or other forms of information technology. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: March 31, 2009.

Cartina A. Miller,

Information Collection Clearance Officer, National Park Service.

[FR Doc. E9–7717 Filed 4–6–09; 8:45 am]

BILLING CODE

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–FHC–2008–N0328; 94300–1124–0000–T5]

Coastal Barrier Resources System Digital Mapping Pilot Project

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: This notice announces the availability of the *Report to Congress: John H. Chafee Coastal Barrier Resources System Digital Mapping Pilot Project* and draft maps for public review and comment. This notice also advises the public where the report and draft maps may be obtained and where comments should be sent.

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

ADDRESSES: Mail or hand-deliver (during normal business hours) comments to Katie Niemi, Coastal Barriers Coordinator, Division of Habitat and Resource Conservation, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 860A, Arlington, VA 22203 or send comments by electronic mail (e-mail) to *CBRAcomments@fws.gov*. For information about how to get copies of the pilot project report and maps or where to go to view them, see **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Katie Niemi, Coastal Barriers Coordinator, (703) 358–2161.

SUPPLEMENTARY INFORMATION:

Background

The Coastal Barrier Resources Act (CBRA) of 1982 (16 U.S.C. 3501 et seq.) established the John H. Chafee Coastal Barrier Resources System (CBRS) to minimize the loss of human life; reduce wasteful Federal expenditures; and minimize the damage to fish, wildlife, and other natural resources associated with coastal barriers. Most new Federal expenditures and financial assistance that have the effect of encouraging development are prohibited within the CBRS. In the Coastal Barrier Improvement Act of 1990 (Pub. L. 101–591), Congress amended CBRA to add new units, enlarge some previously designated units, add Otherwise Protected Areas (OPAs) as a new category of lands, and approve a series of maps entitled ''John H. Chafee Coastal Barrier Resources System'' and dated October 24, 1990. These maps identify and depict those coastal barriers located on the coasts of the Atlantic Ocean, Gulf of Mexico, Great Lakes, Virgin Islands, and Puerto Rico that are subject to the Federal funding limitations outlined in CBRA.

The Secretary of the Interior (Secretary), through the U.S. Fish and Wildlife Service (Service), is responsible for administering CBRA, which includes: maintaining the official maps of the CBRS; consulting with Federal agencies that propose spending funds within the CBRS; and making recommendations to Congress regarding whether certain areas were appropriately included in the CBRS. Aside from three minor exceptions, only Congress through new legislation, can modify the CBRS boundaries to add or remove land. These exceptions include: (1) The CBRA 5-year review requirement that solely considers changes that have occurred to the CBRS by natural forces such as erosion and accretion; (2) voluntary additions to the CBRS by property owners; and (3) additions of excess Federal property to the CBRS.

Digital Mapping Pilot Project

Section 6 of the Coastal Barrier Resources Reauthorization Act of 2000 (CBRRA of 2000; Pub. L. 106–514) directs the Secretary, in consultation with the Director of the Federal Emergency Management Agency, to carry out a pilot project to determine the feasibility and cost of creating digital versions of the CBRS maps. CBRRA of 2000 specifies that the pilot project consist of the creation of digital maps for no more than 75 units and no fewer than 50 units of the CBRS, one-third of which shall be OPAs. CBRRA of 2000 directs the Secretary to submit to the Committee on Environment and Public Works of the Senate, and the Committee on Resources of the House of Representatives, a report that describes the results of the pilot project and the feasibility, data needs, and costs of completing digital maps for the entire CBRS. CBRRA of 2000 specifies that the report shall include a description of: (1) The cooperative agreements that would be necessary to complete digital mapping of the entire CBRS; (2) the extent to which the data necessary to complete digital mapping of the entire CBRS are available; (3) the need for additional data to complete digital mapping of the entire CBRS; (4) the extent to which the boundary lines on the digital maps differ from the boundary lines on the original maps; and (5) the amount of funding necessary to complete digital mapping of the entire CBRS.

In September 2008, the Secretary, through the Service, submitted the report required by CBRRA of 2000 to the Congress. The report contains draft revised maps for 70 units, comprising approximately 10 percent of the entire CBRS, and a framework for modernizing the remainder of the CBRS maps. The pilot project units are located in Delaware, North Carolina, South Carolina, Florida, and Louisiana. A list of all 70 pilot project units is attached to this notice as Appendix A.

The Service's proposed pilot project boundary changes are described in the report to Congress and are depicted in Appendix D of the report, which includes draft maps and accompanying unit summaries for each of the pilot project units. The different types of proposed boundary changes reflected in the draft pilot project maps include: alignment with geomorphic features (*e.g.*, shorelines), development features (*e.g.*, edge of a road, property parcel boundaries), and cultural features (*e.g.*, park boundaries); adjustment to reflect geomorphic change; adjustment to map channel boundaries consistently; addition of associated aquatic habitat; addition of conservation or recreation area to existing OPAs; addition of new OPAs; addition of undeveloped fastland (land above mean high tide) not currently within the CBRS; removal of private land that was inadvertently included within an OPA; and reclassification from System unit to OPA and vice-versa. In cases where we found no compelling evidence to propose a revised boundary, the existing boundary remains unchanged.

Digital Mapping Pilot Project Finalization

The draft pilot project maps will not become effective until they are enacted by Congress through new legislation. Before the Service presents Congress with final recommended maps for its consideration and enactment, we are soliciting, through this notice, public review of and comment on the draft pilot project maps. Section 3 of the Coastal Barrier Resources Reauthorization Act of 2005 (CBRRA of 2005; Pub. L. 109–226) directs the Secretary to submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives, a report that contains: (1) The final recommended maps created under the digital mapping pilot project; (2) recommendations for the adoption of the digital maps by Congress; (3) a summary of the comments received from the Governors of the States, other government officials, and the public regarding the digital maps; (4) a summary and update of the protocols and findings of the report required under section 6(d) of the CBRRA of 2000; and (5) an analysis of any benefits that the public would receive by using digital mapping technology for all System units and OPAs. CBRRA of 2005 requires the Secretary to prepare the report in consultation with the Governors of the States in which any System units and OPAs are located and after providing an opportunity for the submission and consideration of public comments.

This notice announces the availability of the pilot project report and draft maps for public review and comment. Following the close of the comment period on the date listed in the **DATES** section of this document, we will review all public comments received and make adjustments to the draft pilot project maps, as appropriate, based on CBRA's criteria and objective mapping protocols. We will create a set of final recommended maps to address the comments made during the public comment period and to update the underlying base maps with newer aerial imagery where practicable. The final recommended maps will be included in a report to Congress, per the directives of CBRRA of 2005.

Proposed Additions to the CBRS

The proposed boundaries depicted on the pilot project maps are based upon the best data available to the Service at the time the draft maps were created. In general, our assessment indicated that any new areas proposed to be added to the CBRS were undeveloped at the time the pilot project maps were created. We provide the following explanation concerning our development assessment for any new areas proposed to be added to the CBRS.

Section 2 of the CBRRA of 2000 codified guidelines for what the Secretary shall consider when making recommendations to the Congress regarding the addition of any area to the CBRS and in determining whether, at the time of inclusion of a System unit within the CBRS, a coastal barrier is undeveloped. We are not aware of any existing structures located on lands proposed for addition to the CBRS as System units. If, however, a full complement of infrastructure currently exists on the ground for any areas proposed for addition to the CBRS as System units, interested parties may submit documentation of such infrastructure to the Service for consideration during this public comment period. A full complement of infrastructure includes: (1) A road, with a reinforced road bed, to each lot or building site in the area; (2) a wastewater disposal system sufficient to serve each lot or building site in the area; (3) electric service for each lot or building site in the area; and (4) a fresh water supply for each lot or building site in the area. For any pilot project areas proposed for addition to the CBRS as System units, we will consider the level of infrastructure on the ground as of the publication date of this notice. This guidance related to infrastructure will be considered in areas being proposed for addition to the CBRS as System units. We will not consider the presence of infrastructure in areas that are currently located within the CBRS, but are being proposed in the pilot project for reclassification from OPA to System unit status.

Unit FL–64P, Clam Pass, Florida

We note that the proposed pilot project map for Unit FL–64P, Clam Pass, was enacted into law by Public Law 110–419 on October 15, 2008, and is now the controlling map for that unit. We will accept public comments related

to this map during the public comment period and include a summary of any comments received in the report to the Congress required by CBRRA of 2005.

Request for Comments

We invite the public to review and comment on the digital mapping pilot project report to Congress and draft maps created for the 70 CBRS units through the pilot project. The Service is distributing copies of pilot project report and draft maps to the House of Representatives Committee on Natural Resources, the Senate Committee on Environment and Public Works, the members of Congress of each affected area, the Governors of the States in which any System units and OPAs are located, other Federal agencies, local officials, and numerous other stakeholders.

The pilot project report to Congress, draft maps, unit summaries, and digital boundary data can all be accessed and downloaded from the Service's Internet site: *http://www.fws.gov/habitatconservation/coastal_barrier.html.* The public may also contact the Service offices listed in Appendix B of this notice to make arrangements to view the maps. Interested parties may submit written comments and accompanying data to the individual and location identified in the **ADDRESSES** section above. Comments regarding specific maps should reference the appropriate CBRS unit number and unit name. Appendix A of this notice provides a listing of the pilot project units by State, unit number, unit name, and county. We must receive comments on or before the date listed in the **DATES** section of this document.

Below is a description of the materials associated with the pilot project that are being made available to the public.

(1) *Report to Congress*—describes the results of the pilot project and the feasibility, data needs, and costs of completing digital maps for the entire CBRS. The draft maps and unit summaries for each of the 70 pilot project units are included in Appendix D of the report.

(2) *Draft maps*—for each of the 70 pilot project units depict: (1) The existing CBRS boundary and (2) the proposed boundary which represents the Service's recommendation for the boundary placement.

(3) *Unit summaries*—for each of the 70 pilot project units describe the existing boundaries and proposed changes to the boundaries as well as the associated acreage and shoreline mile changes.

(4) *Digital boundary data*—for each of the 70 pilot project units are being made available in shapefile format for reference purposes only. The Service is not responsible for any misuse or misinterpretation of this digital data. During the public comment period, the Service will accept digital GIS data files that are accompanied by written comments.

(5) *Background records*—for each of the 70 pilot project units contain the historical background for each unit, including previously enacted maps, documents referenced during the boundary intent assessment phase, maps showing different data types used to assess boundary intent, signed maps for stakeholder concurrence on OPA boundaries, and any other documentation that describes the placement of the proposed boundaries. These records are maintained by the Service and, upon request, may be viewed by the public at the Service's headquarters office.

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.

Digital Mapping Project for the Remaining Units of the CBRS

Section 4 of the CBRRA of 2005 directs the Secretary to carry out a project to create digital versions of all of the CBRS maps that were not included in the pilot project. We plan to continue modernizing the maps of the CBRS as resources are made available for this effort.

Appendix A—Pilot Project Units

Below is a listing of the pilot project units by State, unit number, unit name, and county.

State of Delaware (1 Map):		
DE–07	Delaware Seashore	Sussex
DE–07P	Delaware Seashore	Sussex
H01	North Bethany Beach	Sussex
State of North Carolina (9 Maps):		
NC–01	Pine Island Bay	Currituck, Dare
NC–05P	Roosevelt Natural Area	Carteret
NC–06	Hammocks Beach	Onslow
NC–06P	Hammocks Beach	Onslow, Carteret
L05	Onslow Beach	Onslow
L06	Topsail	Onslow
L07	Lea Island Complex	Pender, New Hanover
L08	Wrightsville Beach	New Hanover
L09	Masonboro Island	New Hanover
State of South Carolina (1 Map):		
M02	Litchfield Beach	Georgetown
M03	Pawleys Inlet	Georgetown
State of Florida (27 Maps):		
FL–01	Fort Clinch	Nassau
FL–01P	Fort Clinch	Nassau
P04A	Usinas Beach	St. Johns
P05	Conch Island	St. Johns
P05P	Conch Island	St. Johns
P08	Ponce Inlet	Volusia
P08P	Ponce Inlet	Volusia
FL–13P	Spessard Holland Park	Brevard
P09A	Coconut Point	Brevard
P09AP	Coconut Point	Brevard
P10A	Blue Hole	Indian River, St. Lucie

FL–14P	Pepper Beach	St. Lucie
P11	Hutchinson Island	St. Lucie
P11P	Hutchinson Island	St. Lucie
FL–15	Blowing Rocks	Martin, Palm Beach
FL–16P	Jupiter Beach	Palm Beach
FL–17P	Carlin	Palm Beach
FL–18P	MacArthur Beach	Palm Beach
FL–19	Birch Park	Broward
FL–19P	Birch Park	Broward
FL–20P	Lloyd Beach	Broward
P14A	North Beach	Broward
FL–39	Tavernier Key	Monroe
FL–40	Snake Creek	Monroe
FL–43	Channel Key	Monroe
FL–44	Toms Harbor Keys	Monroe
FL–45	Deer/Long Point Keys	Monroe
FL–46	Boot Key	Monroe
FL–64P	Clam Pass	Collier
P17A	Bowditch Point	Lee
FL–67	Bunche Beach	Lee
FL–67P	Bunche Beach	Lee
P21	Bocilla Island	Charlotte
P21P	Bocilla Island	Charlotte
P22	Casey Key	Sarasota
FL–72P	Lido Key	Sarasota
FL–73P	De Soto	Manatee
FL–78	Rattlesnake Key	Manatee
FL–78P	Rattlesnake Key	Manatee
FL–82	Bishop Harbor	Manatee
FL–80P	Passage Key	Manatee
FL–81	Egmont Key	Hillsborough
FL–81P	Egmont Key	Hillsborough
FL–83	Cockroach Bay	Hillsborough
FL–85P	Sand Key	Pinellas
P26	Pepperfish Keys	Dixie
FL–89	Peninsula Point	Franklin
FL–93	Phillips Inlet	Bay
FL–93P	Phillips Inlet	Bay
FL–94	Deer Lake	Walton
State of Louisiana (13 Maps):		
LA–01	Isle Au Pitre	St. Bernard
LA–02	Grand Island	St. Bernard
S04	Timbalier Bay	Lafourche
S05	Timbalier Islands	Terrebonne, Lafourche
S06	Isle Dernieres	Terrebonne
S07	Point au Fer	Terrebonne, St. Mary

Appendix B—U.S. Fish and Wildlife Service Offices Where Pilot Project Maps May Be Inspected

Washington Office—All pilot project maps

U.S. Fish and Wildlife Service, Division of Habitat and Resource Conservation, 4401 N. Fairfax Dr., Room 860A, Arlington, VA 22203; (703) 358–2161.

Northeast Regional Office—Pilot project maps for DE

U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, MA 01035–9589; (413) 253–8200.

Southeast Regional Office—Pilot project maps for FL, NC, SC, LA

U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 400, Atlanta, GA 30345; (404) 679–4000.

Chesapeake Bay Field Office—Pilot project maps for DE

U.S. Fish and Wildlife Service, 177 Admiral Cochrane Drive, Annapolis, MD 21401; (410) 573–4500.

Raleigh Ecological Services Field Office—Pilot project maps for NC

U.S. Fish and Wildlife Service, 551F Pylon Drive, Raleigh, NC 27606; (919) 856–4520.

Charleston Ecological Services Office—Pilot project maps for SC

U.S. Fish and Wildlife Service, 176 Croghan Spur Road, Suite 200, Charleston, SC 29407; (843) 727–4707.

North Florida Field Office—Pilot project maps for North/North Central FL

U.S. Fish and Wildlife Service, 7915 Baymeadows Way, Suite 200, Jacksonville, FL 32256–7517; (904) 731–3336.

South Florida Ecological Services Office—Pilot project maps for South FL

U.S. Fish and Wildlife Service, 1339 20th Street, Vero Beach, FL 32960–3559; (772) 562–3909.

Panama City Ecological Services and Fisheries Resources Office—Pilot project maps for Northwest FL

U.S. Fish and Wildlife Service, 1601 Balboa Avenue, Panama City, FL 32405–3721; (850) 769–0552.

Lafayette Ecological Services Field Office—Pilot project maps for LA

U.S. Fish and Wildlife Service, 646 Cajundome Boulevard, Suite 400, Lafayette, LA 70506; (337) 291–3100.

Rowan W. Gould,

Acting Director.

[FR Doc. E9–7772 Filed 4–6–09; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

National Park Service

Final General Management Plan and Environmental Impact Statement, Governors Island National Monument, New York, NY.

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the National Park Service announces the availability of the Final General Management Plan and Environmental Impact Statement (GMP/EIS) for Governors Island National Monument, New York.

Consistent with National Park Service (NPS) laws, regulations, and policies, and the purpose of the National Monument, the Final GMP/EIS describes the NPS preferred alternative-Alternative D: Harbor Partnership-to guide the management of the National Monument over the next 15 to 20 years. The preferred alternative incorporates various management prescriptions to ensure protection, access and enjoyment of the park's resources.

The Final GMP/EIS describes the NPS preferred alternative and the potential environmental consequences of implementing the preferred alternative. Impact topics include the cultural, natural, and socioeconomic environments. The Final GMP/EIS contains NPS responses to public comments on the Draft GMP/EIS, and copies of agency correspondence and substantive comment letters.

DATES: The document will be available for public review on or about February 20, 2009. The National Park Service will execute a Record of Decision (ROD) no sooner than 30 days following publication by the Environmental Protection Agency of their Notice of Availability of the Final GMP/EIS.

ADDRESSES: The document will be available to the public in a variety of ways:

- An electronic version of the document can be viewed on the National Park Service Planning, Environment and Public Comment (PEPC) Web site at *http://parkplanning.nps.gov*.
- A downloadable PDF will be available on the park's Web site at *http://www.nps.gov/gois.*
- Printed copies (these are limited in quantity) and CD's can be requested by contacting the park at 212–825–3041.
- The document can be viewed in hardcopy form at the following locations:

Mid-Manhattan Library, 455 5th Avenue, New York, NY 10016.
Science, Industry and Business Library, 188 Madison Avenue, New York, NY 10016.
New Amsterdam Branch Library, 9 Murray Street, New York, NY 10007.
Bronx Library Center, 310 East Kingsbridge Road, New York, NY 10458.
St. George Library Center, 5 Central Avenue, Staten Island, NY 10301.
Business Library, 280 Cadman Plaza West at Tillary St., Brooklyn, NY 11201.
Carroll Gardens Library, 396 Clinton St. @ Union St., Brooklyn, NY 11231.
Central Library, Grand Army Plaza, Brooklyn, NY 11238.
Red Hook Library, 7 Wolcott St. at Dwight St., Brooklyn, NY 11231.
Central Library, 89–11 Merrick Boulevard, Jamaica, NY 11432.
Flushing Library, 41–17 Main Street, Flushing, NY 11355.
Jersey City Public Library, Documents Department, 472 Jersey Ave., Jersey City, NJ 07302.
Newark Public Library, 5 Washington St., P.O. Box 0630, Newark, NJ 07 101–0630.
New Jersey State Library, U.S. Documents, 185 W. State St., P.O. Box 520, Trenton, NJ 08625–0520.

SUPPLEMENTARY INFORMATION: The Draft GMP/TIS evaluated alternatives to guide the development and future management of the park over the next 20 years. Alternative A (No Action) provides a baseline evaluation of existing resource conditions, visitor use, facilities, and management at the park. The Action Alternatives (B and C) would enhance the preservation of the park's cultural and natural resources, while providing new opportunities for visitors. Alternative D, the agency's preferred alternative, would create a Harbor Center with partners as a hub of activities and a jumping-off point for visitors to explore New York Harbor.

The Draft GMP/EIS was available for public and agency review from January 16, 2008, through March 18, 2008. Copies of the document were sent to individuals, agencies, organizations, and local libraries. The document was also made available for review at the park and on the NPS Planning, Environment, and Public Comment Web site (*http://parkplaiming.nps.gov*). A public open house was held on February 27, 2008, and a public hearing was held on March 10, 2008. During the review period, the NPS accepted written and oral comments on the document; over six thousand comments were received. The NPS carefully reviewed all comments and prepared a Comment Response Report (Appendix I).

The Final General Management Plan (GMIP) sets forth a vision for the development and operation of Governors Island National Monument.

Dated: February 2, 2009.

Dennis R. Reidenbach,

Regional Director, Northeast Region, National Park Service.

[FR Doc. E9–7603 Filed 4–6–09; 8:45 am]

BILLING CODE 4312–14–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Nimbus Hatchery Fish Passage Project, Lower American River, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) and notice of public scoping meetings.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA), the Bureau of Reclamation (Reclamation), the lead Federal agency, and the California Department of Fish and Game (CDFG), acting as the lead State agency, will prepare a joint EIS/EIR for the proposed Nimbus Fish Hatchery Weir Replacement Project (Project). The purpose of the Project is to create and maintain a reliable system of collecting adult fish for use in the Nimbus Fish Hatchery (Hatchery).

DATES: Two scoping meetings will be held to solicit public input on the scope of the environmental document, alternatives, concerns, and issues to be addressed in the EIS/EIR. The scoping meeting dates are:

- Thursday, April 30, 2009. 1 p.m. to 3 p.m., Gold River, CA.
- Thursday, April 30, 2009. 6:30 p.m. to 8:30 p.m., Gold River, CA.

Written comments on the scope of the EIS/EIR will be accepted until May 28, 2009.

ADDRESSES: The public scoping meetings will be held at the California State University Sacramento Aquatic Center, 1901 Hazel Avenue, Gold River, CA 95670.

Written comments on the scope of the EIS/EIR document should be sent to Mr. David Robinson, Central California Area Office, Bureau of Reclamation, 7794 Folsom Dam Road, Folsom, CA 95630–1799; or e-mailed to *HatchPass@mp.usbr.gov*.

FOR FURTHER INFORMATION CONTACT: Mr. David Robinson, Central California Area Office, Bureau of Reclamation, at the CCAO general telephone number 916–988–1707, e-mail: *HatchPass@mp.usbr.gov*.

SUPPLEMENTARY INFORMATION: The Nimbus Hatchery is located along the lower American River approximately ¼ mile downstream from Nimbus Dam in Rancho Cordova, CA. The Hatchery is a mitigation facility that was constructed by Reclamation in 1955 to compensate for the loss of spawning habitat for Chinook salmon and steelhead trout inundated by the construction of Nimbus Dam. The Hatchery annually produces 4 million fall-run Chinook salmon smolts and 430,000 winter-run American River steelhead yearlings. The fish weir is needed to prevent adult salmon from continuing upstream and allows them to locate and enter the fish ladder and hatchery.

CDFG has continuously operated and maintained the Hatchery under contract with Reclamation since it was originally constructed in 1955. CDFG operates and maintains all salmon and steelhead hatcheries within the State of California and is responsible for the management of statewide fisheries resources. As manager of the State fisheries resources, CDFG is also responsible for recommending and implementing fishing regulations. One alternative under consideration would result in changes to the fishing opportunities immediately downstream from Nimbus Dam pursuant to CDFG Regulation Section 2.35, ''Taking Fish near Dams, Screens, and Egg-taking Stations.'' CDFG will also consider the potential modification to the seasonal fishing regulations between the Hatchery and Nimbus Dam as part of the evaluation of this alternative.

Background: The Project is needed because the existing fish diversion structure is aging, susceptible to periodic significant damage from high flows, and its operation requires annual flow reductions for maintenance which effect protected steelhead populations in the river. Annual short-term flow reductions are required to install the weir at a time when steelhead are rearing in the lower American River. Flow reductions of longer duration are periodically required to repair significant flood damage to the existing structure and scouring around its foundation. This scouring destabilizes the weir and creates large holes that upstream migrant fish can pass through avoiding the entrance into the hatchery ladder.

Objectives: The primary objective of the Project is to maintain a fully functional system of collecting adult fish sufficient to meet mitigation goals. Secondary objectives are to minimize operations and maintenance costs, do away with the need to reduce river flows, and improve public and worker safety.

Alternatives: Reclamation has evaluated a broad set of potential solutions in a series of planning evaluations beginning in the mid-1990s. Two basic approaches to solving the problems that were advanced through the planning process include: (1) Constructing a new fish diversion weir with concrete foundation and air bladder control gates and pickets; and (2) the extension of the fish ladder upstream to Nimbus Dam and removal of the existing fish diversion weir. The EIS/EIR will evaluate each of these alternative approaches and a no action alternative.

Special Assistance for Public Scoping Meetings

If special assistance is required to participate in the public meetings, please contact Ms. Janet Sierzputowski at 916–978–5112, TDD 916–978–5608, or e-mail *jsierzputowski@mp.usbr.gov*. Please notify Ms. Sierzputowski as far in advance as possible to enable Reclamation to secure the needed services. If a request cannot be honored, the requestor will be notified.

Public Disclosure

Before including your name, address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: March 16, 2009.

Mike Chotkowski,

Acting Regional Environmental Officer, Mid-Pacific Region.

[FR Doc. E9–7785 Filed 4–6–09; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–956–1420–BJ]

Florida; Eastern States: Filing of Supplemental Plat of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Supplemental Plat; Florida.

SUMMARY: The Bureau of Land Management (BLM) will file the supplemental plat of survey of the lands described below in the BLM–Eastern States, Springfield, Virginia, 30 calendar days from the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153.

SUPPLEMENTARY INFORMATION: This survey was requested by the Bureau of Land Management-Eastern States, Branch of Lands and Realty.

The lands shown on the plat are:

Tallahassee Meridian, Florida

T. 6 S., R. 15 E.

The supplemental plat identifies an unlotted parcel of land in the NW 1/4 of Section 26 of Township 6 South, Range 15 East, of the Tallahassee Meridian, in the State of Florida, as shown on the original plat dated February 1827, and was accepted March 18, 2009. We will place a copy of the plat we described in the open files. It will be available to the public as a matter of information.

If BLM receives a protest against this survey, as shown on the plat, prior to the date of the official filing, we will stay the filing pending our consideration of the protest.

We will not officially file the plat until the day after we have accepted or dismissed all protests and they have become final, including decisions on appeals.

Dated: April 1, 2009.

Dominica Van Koten,

Chief Cadastral Surveyor.

[FR Doc. E9–7787 Filed 4–6–09; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCONO134–09–L17110000–AL0000–241A]

Notice of Public Meetings, McInnis Canyons National Conservation Area Advisory Council Meeting

Authority: Pub. L. 106–353

AGENCY: Bureau of Land Management, Interior

ACTION: Announcement of meetings.

SUMMARY: The McInnis Canyons National Conservation Area (MCNCA) Advisory Council has scheduled one additional meeting for 2009. This meeting will be a non-voting work session designed to gather information. During this meeting, the Advisory Council will discuss matters related to future organization of the MCNCA Advisory Council. These meetings are open to the public and public input into representation by the MCNCA Advisory Council is desired.

DATES: The meeting date is: 1. May 7, 2009, Grand Junction, Colorado.

ADDRESSES: This work session will be held at the Bureau of Land Management Grand Junction Field Office, 2815 H. Road, at 6 p.m.

FOR FURTHER INFORMATION CONTACT: Katie A. Stevens, (970) 244–3000.

SUPPLEMENTARY INFORMATION: The McInnis Canyons National Conservation Area was established on October 24, 2000, when the President signed the Colorado Canyons National Conservation Area and Black Ridge Wilderness Act of 2000 (Act). The Act also required that an Advisory Council be established to provide advice in the preparation and implementation of the Resource Management Plan. The name of the NCA was congressionally changed at the end of 2004 from Colorado Canyons National Conservation Area to McInnis Canyons National Conservation Area (MCNCA). The Resource Management Plan has been completed and is now being implemented.

The agenda topics for the May meeting are:

(1) Future Role of Advisory Council: Continued function as a stand-alone Advisory Council or re-organized as a subgroup of the Northwest Resource Advisory Council.

(2) Public Comment Period

This meeting will be open to the public and will include time for public comment. Interested persons may make oral statements or submit written statements at the meeting. Per-person time limits for oral statements may be set to allow all interested persons to speak.

Summary minutes of all Council meetings will be maintained at the Bureau of Land Management Office in Grand Junction, Colorado. They are available for public inspection and reproduction during regular business hours within thirty (30) days following the meeting. In addition, minutes and other information concerning the MCNCA Advisory Council can be obtained from the MCNCA Web site at: *http://www.co.blm.gov/mcnca/index.htm.*, which will be updated following each Advisory Council meeting.

This meeting does not replace the Advisory Council meeting scheduled for July 16, 2009, at 4 p.m. published 73 FR 249, Page 79503. This meeting will continue as planned at the Mesa County Administration Building; 544 Rood Avenue, Grand Junction, CO.

Dated: March 25, 2009.

Katie A. Stevens,

McInnis Canyons National Conservation Area Manager.

[FR Doc. E9–7931 Filed 4–6–09; 8:45 am]

BILLING CODE

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–963–1410–FQ; F–14223]

Notice of Correction to Public Land Order Number 7692

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of correction.

SUMMARY: On March 25, 2008, the Bureau of Land Management published a PLO in the **Federal Register** [73 FR 15733] concerning the Partial Revocation of Public Land Order Number 5150.

''Settlement Act, 43 U.S.C. 1631(h)(4) and * * *'' correct to read ''* * * Settlement Act 43 U.S.C. 1613(h)(4) and * * *''

FOR FURTHER INFORMATION CONTACT: Renee Fencl at (907) 271–5067.

Dated: March 23, 2009.

Ramona Chinn,

Deputy State Director, Alaska Lands.

[FR Doc. E9–7706 Filed 4–6–09; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNML00000 L14300000.ES0000; NMNM 119204]

Correction to Recreation and Public Purposes (R&PP) Act Classification; Dona Ana County, NM

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Correction notice.

SUMMARY: This notice contains a correction to the Recreation and Public Purposes (R&PP) Act Classification published in the **Federal Register** [73 FR No. 200, pages 61166–61167] on Wednesday, October 15, 2008, under the **SUPPLEMENTARY INFORMATION**.

SUPPLEMENTARY INFORMATION: The second full sentence beginning with ''Also, in accordance * * *'' should read: Also, in accordance with Section 7 of the Taylor Grazing Act (43 U.S.C. 317f) and Executive Order 6910, the following described land has been examined and found suitable for classification for lease and subsequent conveyance to a government entity—specifically, a site for a proposed community center and park operated and managed by Dona Ana County, New Mexico.

FOR FURTHER INFORMATION CONTACT: Frances Martinez, at the Bureau of Land Management, Las Cruces District Office, 1800 Marquess Street, Las Cruces, New Mexico or at (575) 525–4385.

Bill Childress,

District Manager, Las Cruces.

[FR Doc. E9–7702 Filed 4–6–09; 8:45 am]

BILLING CODE 4310–VC–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–NEW]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-day notice of new information collection: Civil Justice Survey of State Courts Trials on Appeal.

The Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to

obtain comments from the public and affected agencies. The proposed information collection was previously published in the **Federal Register** Volume 74, Number 19, pages 5678–5679, on January 30, 2009, allowing for a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comment until May 7, 2009. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the pubic and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

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

Overview of This Information

(1) *Type of Information Collection:* New information collection, Civil Justice Survey of State Courts Trials on Appeal.

(2) *The Title of the Form/Collection:* Civil Justice Survey of State Courts Trials on Appeal.

(3) *The Agency Form Number, if Any, and the Applicable Component of the Department Sponsoring the Collection:* The form labels are CJSSCTA—IAC, CJSSCTA—COLR, and CJSSCTA—ADR, Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice.

(4) *Affected Public who Will be Asked or Required to Respond, as Well as a Brief Abstract:* Primary: State Appellate Courts. The purpose of the CJSSCTA project is to provide detailed statistical information on civil cases adjudicated at the appellate level in State courts. The project will collect information from court records on individual civil cases disposed in a sample of State intermediate appellate courts and courts of last resort. The types of information collected will include the types of civil cases appealed after trial to an intermediate appellate court or court of last resort, the impact of the appellate process on trial court outcomes, the extent that appellate claims are dismissed or withdrawn before being decided on the merits, the types of legal issues raised on appeal, the number of appeals ending in a published opinion, and the rate of judicial dissent at the appellate level. The survey will also collect aggregate count information on the number of appeals referred to and settled through court annexed alternative dispute resolution programs.

(5) *An Estimate of the Total Number of Respondents and the Amount of Time Estimated for an Average Respondent to Respond/Reply:* It is estimated that information will be collected on 1,500 civil cases concluded by trial in 2005 in which either the plaintiff or defendant filed a notice of appeal to an intermediate appellate court or court of last resort. Information will also be collected on the number of cases filed and disposed in court annexed alternative dispute resolution programs. Annual cost to the respondents is based on the number of hours involved in providing information from court records for the intermediate appellate court, court of last resort, and alternative dispute resolution forms. Public reporting burden for this collection of information is estimated to average 1.5 hours per data collection form for the intermediate appellate court and court of last resort forms and 2 hours for the alternative dispute resolution forms. The estimate of hour burden is based on prior civil justice data collections and pre-tests of the current forms.

(6) *An Estimate of the Total Public Burden (in Hours) Associated with the Collection:* The estimated public burden associated with this collection is 830 hours. It is estimated that on-site data collection will be necessary for about 500 of the 1,500 civil appeals. Hence, the estimated burden hour to complete each of the appellate data collection forms will result in a total of 750 burden hours to complete the CJSSCTA (500 data collection forms multiplied by 1.5 hours per form = 750 burden hours). In addition to the case level appellate data collection forms, it is estimated that 40 appellate courts will have some form of court—annexed alternative dispute resolution (ADR) program. The estimated burden hour to complete the ADR spreadsheets for the participating appellate courts will result in a total of 80 burden hours to complete the ADR portion of this project: (40 appellate courts with ADR programs multiplied by 2 hours per coding spreadsheet = 80 burden hours). Therefore, the total burden hours for the CJSSCTA amounts to 830 burden hours (750 burden hours to complete the case level appellate forms + 80 hours to complete the ADR spreadsheets).

If additional information is required contact: Ms. Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: April 1, 2009.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E9–7821 Filed 4–6–09; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–NEW]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-day Notice of new collection: Research to support the National Crime Victimization Survey (NCVS).

The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 73, Number 231, page 72840 on December 1, 2008, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until May 7, 2009. This

process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

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

Overview of this information:

(1) *Type of information collection:* Generic clearance for methodological research on the National Crime Victimization Survey.

(2) *Title of the Form/Collection:* National Crime Victimization Survey.

(3) *Agency form number, if any, and the applicable component of the department sponsoring the collection:* n/a.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Persons ages 12 or older are eligible for participation in the NCVS. This generic clearance will cover methodological research that will use existing or new sampled households with the same ages of respondents currently used in the NCVS.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* Approximately 15,260 persons ages 18 or older will participate in this methodological research. The time for each respondent to participate will vary based on the study component.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total respondent burden is approximately 16,340 hours for the three years of this clearance.

If additional information is required contact: Lynn Bryant, Department Deputy Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: April 2, 2009.

Lynn Bryant,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. E9–7815 Filed 4–6–09; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,027; TA–W–65,027A; TA–W–65,027B]

Davis-Standard LLC, Pawcatuck, CT, Including Off-Site Employees in Support of Davis-Standard LLC, Pawcatuck, CT, Working at Various Locations in Plainfield, IL and Westerville, OH; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on February 9, 2009, applicable to workers of Davis-Standard LLC, Pawcatuck, Connecticut. The notice was published in the **Federal Register** on March 3, 2009 (74 FR 4387).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in activities related to the production of plastic extrusion machinery.

New information shows that worker separations have occurred involving off-site employees in support and under the control of Davis-Standard LLC, Pawcatuck, Connecticut at various locations.

Based on these findings, the Department is amending this certification to include Mr. Roger Clarke, working out of Plainfield, Illinois and Mr. Ronald Allbritton, working out of Westerville, Ohio.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports of plastic extrusion machinery following the shift of production to China and the United Kingdom.

The amended notice applicable to TA–W–65,027 is hereby issued as follows:

All workers of Davis-Standard LLC, Pawcatuck, Connecticut, including employees in support of Davis-Standard LLC, Pawcatuck, Connecticut at various locations in the following states: Plainfield, Illinois (TA–W–65,027A) and Westerville, Ohio (TA–W–65,027B), who became totally or partially separated from employment on or after January 27, 2008, through February 9, 2011, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 30th day of March 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7792 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,383]

International Business Machines Corporation, IBM Integrated Supply Chain Operations, Hopewell Junction, NY; Notice of Negative Determination Regarding Application for Reconsideration

By application dated February 21, 2009, the petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA), applicable to workers and former workers of the subject firm. The denial notice was signed on January 2, 2009 and published in the **Federal Register** on January 26, 2009 (74 FR 4464).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the

determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The negative TAA determination issued by the Department for the workers of International Business Machines Corporation, IBM Integrated Supply Chain Operations, Hopewell Junction, New York was based on the findings that the worker group did not produce an article within the meaning of Section 222 of the Trade Act of 1974. The investigation revealed that workers of the subject firm provided internal maintenance and development services for various Web based applications. The investigation further revealed that no production of article(s) occurred within the firm or appropriate subdivision during the relevant period.

The petitioner in the request for reconsideration contends that the Department erred in its interpretation of the work performed by the workers of the subject firm. The petitioner states that from 1996 to 2007 the workers of the subject firm developed applications that ''were being deployed in China for education and financial purposes''. The petitioner also indicates that the workers maintained and created applications for customers.

When assessing eligibility for TAA, the Department exclusively considers production and import impact during the relevant time period (one year prior to the date of the petition). Events occurring between 1996 and October 2007 are outside of the relevant time period as established by the petition date of November 4, 2008, and thus cannot be considered in this investigation.

The investigation revealed that during the relevant period, the workers of International Business Machines Corporation, IBM Integrated Supply Chain Operations, Hopewell Junction, New York managed existing applications in the IBM Procurement portfolio that were used internally for purposes such as invoice support, Web orders, and procurement.

These functions, as described above, are not considered production of an article within the meaning of Section 222 of the Trade Act. While the provision of services may result in printed material or can be stored electronically, it is incidental to the provision of these services. No production took place at the subject facility, nor did the workers support production of an article at any domestic location during the relevant period.

The petitioner also alleges that job functions have been shifted from the subject firm to China.

The allegation of a shift to another country might be relevant if it was determined that workers of the subject firm produced an article. However, the investigation determined that workers of International Business Machines Corporation, IBM Integrated Supply Chain Operations, Hopewell Junction, New York do not produce an article within the meaning of Section 222 of the Trade Act of 1974.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed in Washington, DC, this 24th day of March 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7797 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,401]

Qimonda 200 MM Facility, Including On-Site Leased Workers From Tokyo Electron America, Nikon Precision, Inc. and Air Products and Chemicals, Inc., and Qimonda North America Corporation, Qimonda Richmond, a Subsidiary of Qimonda AG, Sandston, VA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on December 11, 2008, applicable to workers of Qimonda 200 MM Facility, Sandston, Virginia. The notice was published in the **Federal Register** on December 30, 2008 (73 FR 79914). The certification was amended on February 10, 2009 and March 3, 2009 to include on-site leased workers of Tokyo Electron America, Nikon Precision and Ebara Technologies. These notices were published in the **Federal Register** on February 23, 2009 (74 FR 8111) and March 11, 2009 (74 FR 10619) respectfully.

At the request of the subject firm, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of DRAM semiconductor wafers.

The company reports that worker separations occurred at Qimonda North America Corporation, Qimonda Richmond, a subsidiary of Qimonda AG, and are on-site with the Qimonda 200 MM Facility. Workers of the Qimonda 200 MM Facility and workers of Qimonda North America Corporation are not separately identifiable by product line (DRAM semiconductor wafers).

New Information also shows that workers leased from Air Products and Chemicals, Inc. were employed on-site at the Sandston, Virginia location of Qimonda 200 MM Facility. The Department has determined that these workers were sufficiently under the control of the subject form to be considered leased workers.

Based on these findings, the Department is amending this certification to include all on-site workers of Qimonda North America Corporation, Qimonda Richmond, a subsidiary of Qimonda AG and to include leased workers from Air Products and Chemicals, Inc. working on-site at the Sandston, Virginia location of the subject firm.

The amended notice applicable to TA–W–64,401 is hereby issued as follows:

All workers of Qimonda 200 MM Facility, including on-site leased workers from Tokyo Electron America, Nikon Precision, Inc., and Air Products and Chemicals, Inc., Sandston, Virginia, and including on-site workers of Qimonda North America Corporation, Qimonda Richmond, a subsidiary of Qimonda AG, Sandston, Virginia who became totally or partially separated from employment on or after November 11, 2007 through December 11, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 31st day of March 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7798 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–61,554, et al.]

Semitool, Incorporated, Including On-Site Leased Employees From LC Staffing, Express Personnel and Workplace, Inc., Kalispell, MT; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

INCLUDING EMPLOYEES IN SUPPORT OF SEMITOOL, INCORPORATED, KALISPELL, MONTANA WORKING AT VARIOUS LOCATIONS IN THE FOLLOWING STATES

TA–W–61,554C ARIZONA	TA–W–63,996D CALIFORNIA
TA–W–61,554E FLORIDA	TA–W–61,554F MAINE
TA–W–61,554G NORTH CAROLINA	TA–W–61,554H NEW JERSEY
TA–W–61,554I NEW YORK	TA–W–61,554J OREGON
TA–W–61,554K PENNSYLVANIA	TA–W–61,554L TEXAS
TA–W–61,554M UTAH	TA–W–61,554N VIRGINIA
TA–W–61,554O WASHINGTON	TA–W–61,554P WISCONSIN

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on July 16, 2007, applicable to workers of Semitool, Incorporated, including on-site leased workers from LC Staffing, Express Personnel, and Workplace, Incorporated, Kalispell, Montana. The notice was published in the **Federal Register** on August 2, 2007 (72 FR 42435).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of semiconductor processing equipment.

New information shows that worker separations occurred involving employees who provided sales and services supporting the Kalispell, Montana location of Semitool, Incorporated working at various locations in the above mentioned States.

Based on these findings, the Department is amending this certification to include employees of the Kalispell, Montana facility of Semitool, Incorporated working out of the above mentioned States.

The intent of the Department's certification is to include all workers of Semitool, Incorporated, Kalispell, Montana who were adversely affected by increased imports of semiconductor processing equipment.

The amended notice applicable to TA–W–61,554 is hereby issued as follows:

All workers of Semitool, Incorporated, including on-site leased workers from LC Staffing, Express Personnel and Workplace, Incorporated, Kalispell, Montana, including employees in support of Semitool, Incorporated, Kalispell, Montana working at various locations in the following states: Arizona (TA–W–61,554C), California (TA–W–61,554D), Florida (TA–W–61,554E), Maine (TA–W–61,554F), North Carolina (TA–W–61,554G), New Jersey (TA–W–61,554H), New York (TA–W–61,554I), Oregon (TA–W–61,554J), Pennsylvania (TA–W–61,554K), Texas (TA–W–61,554L), Utah (TA–W–61,554M, Virginia (TA–W–61,554N), Washington (TA–W–61,554O) and Wisconsin (TA–W–61,554P), who became totally or partially separated from employment on or after May 18, 2006, through July 16, 2009, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC this 26th day of March 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7795 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,666]

Kongsberg Automotive, Formerly Known as Teleflex, Including On-Site Leased Workers From Labor Finders, the Arnold Group, LSI Staffing and Richard Weisbart, Haysville, KS; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on December 29, 2008, applicable to workers of Kongsberg Automotive, formerly known as Teleflex, Incorporated, including on-site leased workers from Labor Finders, The Arnold Group, and LSI Staffing, Haysville, Kansas. The notice was published in the **Federal Register** on January 26, 2009 (74 FR 4463).

At the request of the company official, the Department reviewed the certification for workers of the subject firm. The workers produce injected plastic components for the automotive industry.

New information provided by the company shows that during the initial investigation, the official inadvertently

excluded the Richard Weisbart contract with Kongsberg Automotive in Haysville, Kansas. Mr. Weisbart is the plant manager and is sufficiently under the control of the subject firm.

The intent of the Department's certification is to include all workers at the subject firm who were adversely affected by the shift in production to Mexico.

Based on these findings, the Department is amending the certification to include Richard Weisbart working on-site at the Haysville, Kansas location of the subject firm.

The amended notice applicable to TA–W–64,666 is hereby issued as follows:

All workers of Kongsberg Automotive, formerly known as Teleflex, Incorporated, including on-site leased workers from Labor Finders, The Arnold Group, LSI Staffing, and Richard Weisbart, Haysville, Kansas, who became totally or partially separated from employment on or after December 9, 2007, through December 29, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 31st day of March 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7800 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,976]

General Binding Corporation a Division of ACCO Brands, Inc. Including On-Site Leased Workers From Aerotek, Action Temps and Paramount Staffing, Addison, IL; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification Regarding Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on February 4, 2009, applicable to workers of General Building Company, Addison, Illinois. The notice was published in the **Federal Register** on March 3, 2009 (74 FR 9282).

At the request of a State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of thermal laminating film.

New information shows that the finding issued by the Department incorrectly named the subject firm as General Building Corporation. The subject firm's actual name is General Binding Corporation.

Accordingly, the Department is amending this certification to reflect the newly discovered information.

The amended notice applicable to TA–W–64,976 is hereby issued as follows:

All workers of General Binding Corporation, a division of ACCO Brands, Inc., including on-site leased workers from Aeortek, Action Temps and Paramount Staffing, Addison, Illinois, who became totally or partially separated from employment on or after January 22, 2008 through February 4, 2011 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 24th day of March, 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7804 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,764]

Intalco Aluminum Corporation, Global Primary Products—US Division, A Subsidiary of Alcoa, Inc., Including On-Site Leased Workers From Icon Information Consultants, Manpower, GCA, Total-Western, Machinery Installation and Maintenance, 7 Sisters, Bills Electric, Blythe, Bayside, Berry Acres, Veolia, Erm, Fluor, Ej Bartells, NW Communication, Ferndale, WA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on January 30, 2009, applicable to workers of Intalco Aluminum Corporation, Global Primary Products—US Division, a subsidiary of Alcoa, Inc., Ferndale, Washington. The notice was published in the **Federal Register** on February 23, 2009 (74 FR 8115).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of primary aluminum products such as billet, foundry, tees, and standards.

New information provided by the company shows that workers leased from Icon Information Consultants, Manpower, GCA, Total-Western, Machinery Installation and Maintenance, 7 Sisters, Mills Electric, Blythe, Bayside, Berry Acres, Veolia, ERM, Fluor, EJ Bartells, and NW Communication were employed on-site at Intalco Aluminum Corporation, Global Primary Products—US Division, a subsidiary of Alcoa, Inc., Ferndale, Washington.

The intent of the Department's certification is to include all workers at the subject firm who were adversely affected by supplying component parts to a previously certified primary firm.

The Department has determined that these workers were sufficiently under the control of Intalco Aluminum Corporation to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Icon Information Consultants, Manpower, GCA, Total-Western, Machinery Installation and Maintenance, 7 Sisters, Mills Electric, Blythe, Bayside, Berry Acres, Veolia, ERM, Fluor, EJ Bartells, and NW Communication, working on-site at the Ferndale, Washington location of the subject firm.

The amended notice applicable to TA–W–64,764 is hereby issued as follows:

All workers of Intalco Aluminum Corporation, Global Primary Products—US Division, a subsidiary of Alcoa, Inc., Ferndale, Washington, including on-site leased workers from Icon Information Consultants, Manpower, GCA, Total-Western, Machinery Installation and Maintenance, 7 Sisters, Mills Electric, Blythe, Bayside, Berry Acres, Veolia, ERM, Fluor, EJ Bartells, and NW Communication, who became totally or partially separated from employment on or after December 15, 2007 through January 30, 2011, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed in Washington, DC, this 31st day of March 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7802 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,697]

Tower Automotive Operations, USA III, LLC, Including On-Site Workers From Storeroom Solutions, Inc., Including On-Site Leased Workers From Peoplelink, Traverse City, MI; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on February 9, 2009, applicable to workers of Tower Automotive Operations, USA III, LLC, including on-site leased workers from Peoplelink, Traverse City, Michigan. The notice was published in the **Federal Register** on March 3, 2009 (74 FR 9278).

At the request of the petitioner, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of automotive metal stamping and assemblies.

New information shows that worker separations occurred involving employees of Storeroom Solutions, Inc. employed on-site at the Traverse City, Michigan location of Tower Automotive Operations USA III, LLC.

The Storeroom Solutions, Inc. employees provided various functions supporting the production of automotive metal stamping and assemblies at the Traverse City, Michigan location and were under the control of Tower Automotive at that site.

Based on these findings, the Department is amending this certification to include all workers of Storeroom Solutions, Inc. working on-site at the Traverse City, Michigan location of the subject firm.

The intent of the Department's certification is to include all workers employed at Tower Automotive Operations, USA III, LLC, Traverse City, Michigan who were adversely affected by increased imports of automotive metal stampings and assemblies.

The amended notice applicable to TA–W–64,697 is hereby issued as follows:

All workers of Tower Automotive Operations, USA III, LLC, including on-site workers from Storeroom Solutions, Inc., including on-site leased workers from Peoplelink, Traverse City, Michigan, who became totally or partially separated from employment on or after December 15, 2007 through February 9, 2011, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 27th day of March 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7801 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,704]

Spring Window Fashions, Including On-Leased Employees From Kelly Services, Spherion, Keystone Staffing, Ashford Staffing and One Source, Montgomery, PA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on February 27, 2008, applicable to workers of Spring Window Fashions, including on-site leased workers from Kelly Services, Spherion, Keystone Staffing and Ashford Staffing, Montgomery, Pennsylvania. The notice was published in the **Federal Register** on March 11, 2008 (73 FR 13017).

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of window coverings such as mini blinds and pleated blinds, and other forms of window treatments.

New information shows that workers leased from One Source were employed on-site at the Montgomery, Pennsylvania location of Spring Window Fashions. The Department as determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include leased workers from One Source working on-site at the Montgomery, Pennsylvania location of the subject firm.

The amended notice applicable to TA–W–62,704 is hereby issued as follows:

All workers of Spring Window Fashions, including on-site leased workers from Kelly Services, Spherion, Keystone Staffing, Ashford Staffing and One Source, Montgomery, Pennsylvania, who became totally or partially separated from employment on or after January 4, 2007, through February 27, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC this 27th day of March 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7796 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of March 16 through March 27, 2009.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or

an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (*i.e.*, conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) of the Trade Act have been met.

None.

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–64,640; Plainfield Stamping—Illinois, Inc., A Subsidiary of Plainfield Tool and Engineering, Plainfield, IL: December 9, 2007.

TA–W–65,069; PVH Superba/Insignia Neckwear, Inc., Los Angeles, CA: January 30, 2008.

TA–W–65,145; Hubbell Power Systems, Inc., Centralia, MO: January 23, 2008.

TA–W–65,249; Disston Company, South Deerfield, MA: February 9, 2008.

TA–W–65,293; Bowe Industries, Inc., Changes, Inc., Glendale, NY: February 1, 2008.

TA–W–65,398; ACCU–Chek Machining, Inc., On-Site Leased Workers From Manpower and Spherion, St. Marys, PA: February 25, 2008.

TA–W–64,518; Hendrickson USA, LLC, Lugoff Axle Business Unit Division, Lugoff, SC: November 19, 2007.

TA–W–64,545; Sanmina SCI, Manpower, Turtle Lake, WI: November 18, 2007.

TA–W–64,971; Gregg Industries, El Monte, CA: January 15, 2008.

TA–W–64,989; Contemporary Furniture Group, Inc., dba Carter Furniture of Salisbury, Salisbury, NC: January 15, 2008.

TA–W–65,105; Safer Holding Corporation, Newark, NJ: April 28, 2009.

TA–W–65,111; BASF Corporation Chemical Division, Kelly Services, Mundy Maintenance & Operations, Wilmington, NC: February 3, 2008.

TA–W–65,120; Santee Print Works, Sumter, SC: February 3, 2008.

TA–W–65,260A; McCreary Modern, Inc., Plant No. 2, On-Site Leased Workers of Abel Body, Newton, NC: February 13, 2008.

TA–W–65,260B; McCreary Modern, Inc., Plant No. 4, Frame, On-Site Leased Workers of Abel Body, Malden, NC: February 13, 2008.

TA–W–65,260C; McCreary Modern, Inc., Plant No. 5, Chair, On-Site Leased Workers of Abel Body, Lenoir, NC: February 13, 2008.

TA–W–65,260D; McCreary Modern, Inc., Plant No. 6 Woodworking, On-Site

Leased Workers of Abel Body, Lenoir, NC: February 13, 2008.

TA–W–65,260E; McCreary Modern, Inc., Plant No. 9, On-Site Leased Workers of Abel Body, Conover, NC: February 13, 2008.

TA–W–65,260; McCreary Modern, Inc., Plant No. 1, On-Site Leased Workers of Abel Body, Newton, NC: February 13, 2008.

TA–W–65,268; PHB Machining Division, PHB, Inc., Career Concepts and Volt, Fairview, PA: February 9, 2008.

TA–W–65,353; Principle Fixture and Millwork, Inc., Osceola, WI: February 23, 2008.

TA–W–65,397A; True Textiles, Inc., Leonard G Saulter Facility, Guilford, ME: February 25, 2008.

TA–W–65,397; True Textiles, Inc., Newport, ME: February 25, 2008.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–64,758; Fortis Plastics, LLC, FNA Atlantis Plastics, Inc., On-Site Leased Workers Express Employment Profess, Alamo, TX: December 19, 2007.

TA–W–65,168; Hewlett Packard—BCS Fremont Supply Chain Operations, Chimes and North American Logistics, Fremont, CA: February 5, 2008.

TA–W–65,199; ASCO, Inc., Florham Park, NJ: February 9, 2008.

TA–W–65,286; Ford Motor Company, Sterling Axle Plant, Sterling Heights, MI: January 17, 2008.

TA–W–65,321; Siemens E & A Inc., Division of Distribution Products, Urbana, OH: February 19, 2008.

TA–W–65,490; Mold-Tech Michigan, Standex International Corporation, Fraser, MI: February 19, 2008.

TA–W–65,553; GKN Sinter Metals, DuBois Plant, Spherion, DuBois, PA: March 10, 2008.

TA–W–65,484; Lineage Power, Formerly Cherokee International Corporation, On-Site Leased Workers from Aerotek, Tustin, CA: February 26, 2008.

TA–W–65,514; Synventive Molding Solutions, Inc., Peabody, MA: March 4, 2008.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–65,258; Shape Corporation, Grand Haven, MI: February 16, 2008.

TA–W–65,427; MoCaro Industries, Inc., Statesville, NC: February 26, 2008.

TA–W–65,437A; Indianapolis Costing Corp., Wholly Subsidiary of Navistar, Leased Workers Community Hospital, Nishida, Indianapolis, IN: February 26, 2008.

TA–W–65,437B; Navistar, Inc., Engine Group, Leased Workers of Community Hospital, Nishida, Indianapolis, IN: February 26, 2008.

TA–W–65,437; Navistar, Inc., Indianapolis Engine Plant, On-Site Leased Workers Community Hospital, Nishida, Indianapolis, IN: February 26, 2008.

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

None.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

The Department has determined that criterion (1) of Section 246 has not been met. The firm does not have a significant number of workers 50 years of age or older.

None.

The Department has determined that criterion (2) of Section 246 has not been met. Workers at the firm possess skills that are easily transferable.

None.

The Department has determined that criterion (3) of Section 246 has not been met. Competition conditions within the workers' industry are not adverse.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

None.

The investigation revealed that criteria (a)(2)(A)(I.B.) (Sales or production, or both, did not decline) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–65,459; Carbone of America Industries Corp., A Subsidiary of Carbone Lorraine, St. Marys, PA.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–64,313; GE Consumer and Industrial Lighting, Willoughby Lucalox Plant, Willoughby, OH.

TA–W–64,486; Motor City Mold, Inc., Plymouth, MI.

TA–W–64,676; D.R. Johnson Lumber Company, Riddle, OR.

TA–W–64,677; Riddle Laminators, Riddle, OR.

TA–W–64,991; Genie Industries, Inc., Formerly Genie Manufacturing, Redmond, WA.

TA–W–65,116; Oaklawn Packaging, Inc., Leased Workers From First Staff, Fort Smith, AR.

TA–W–65,128; Longview Fibre Paper and Packaging, Inc., Twin Falls, ID.

TA–W–65,158; Hampton Capital Partners, LLC, DBA Gulistan Carpet, A Subsidiary of Ronile, Inc., Aberdeen, NC.

TA–W–65,244; Muscle Shoals Rubber Company, Batesville, MS.

TA–W–65,338; Performance Fibers Operations, Inc., Salisbury Plant, Salisbury, NC.

TA–W–65,347; AV Tool and Engineering, Inc., Clinton TWP, MI.

TA–W–65,379A; Anson Shirt Company, A Subsidiary of Polkton Mfg., dba Seagoing Uniform, Wadesboro, NC.

TA–W–65,379; Down East Apparel, A Subsidiary of Polkton Mfg., dba Seagoing Uniform, Robersonville, NC.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–64,890; DHL, Breinigsville, PA.

The investigation revealed that criteria of Section 222(b)(2) has not been met. The workers' firm (or subdivision) is not a supplier to or a downstream producer for a firm whose workers were certified eligible to apply for TAA.

TA–W–64,533; Racine Stamping Corporation, Racine, WI.

I hereby certify that the aforementioned determinations were issued during the period of March 16 through March 27, 2009. Copies of these determinations are available for inspection in Room N–5428, U.S.

Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: April 1, 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7794 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than April 17, 2009.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than April 17, 2009.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 2nd day of April 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

APPENDIX

[TAA petitions instituted between 3/9/09 and 3/13/09]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
65514	Synventive Molding Solutions, Inc. (Comp)	Peabody, MA	03/09/09	03/04/09
65515	Bayloff Stamped Products (Union)	Kinsman, OH	03/09/09	03/06/09
65516	Bauer Industries, Inc. (Wkrs)	Hildebran, NC	03/09/09	03/01/09
65517	General Motors (UAW)	Warren, OH	03/09/09	03/06/09
65518	Sunbury Textile Mills (Wkrs)	Sunbury, PA	03/09/09	03/06/09
65519	Goodyear Tire and Rubber Company (USW)	Union City, TN	03/09/09	03/06/09
65520	Monaco Coach Corporation (State)	Hines, OR	03/09/09	03/06/09
65521	KB Alloys LLC—Wenatchee Plant (USW)	Malaga, WA	03/09/09	03/06/09
65522	Bernhardt Furniture Company (Wkrs)	Lenoir, NC	03/09/09	03/03/09
65523	Federal-Mogul Corporation (Wkrs)	Blacksburg, VA	03/09/09	02/22/09
65524	Volvo Truck—North America (UAW)	Dublin, VA	03/09/09	02/25/09
65525	Broan-Nutone Co (State)	Hartford, WI	03/09/09	03/04/09
65526	Monaco Coach Corporation (State)	Coburg, OR	03/09/09	03/06/09
65527	Alcoa Wenatchee Works (USW)	Malaga, WA	03/09/09	03/06/09
65528	The Warren Company (Comp)	Erie, PA	03/09/09	03/06/09
65529	Active USA/ATC Leasing (Wkrs)	Pleasant Prairie, WI	03/09/09	02/18/09
65530	Zosel Lumber Company (Comp)	Oroville, WA	03/09/09	03/05/09
65531	Mount Vernon Mills (Comp)	Williamston, SC	03/10/09	03/09/09
65532	Talbar, Inc. (Comp)	Meadville, PA	03/10/09	03/06/09
65533	Gerber Technology (Comp)	Richardson, TX	03/10/09	03/02/09
65534	ICTEL (Wkrs)	Charleston, IL	03/10/09	02/22/09
65535	Eaton Aviation Corporation (Comp)	Aurora, CO	03/10/09	03/09/09
65536	HS Converting (Comp)	Conover, NC	03/10/09	03/09/09
65537	Avery Dennison (Comp)	Sayre, PA	03/10/09	03/09/09
65538	Ferro Corporation (Wkrs)	Cleveland, OH	03/10/09	03/09/09
65539	Lexis Nexis (State)	San Francisco, CA	03/10/09	03/09/09
65540	Trinity Rail (Plant #19) Industries (Wkrs)	Longview, TX	03/10/09	02/26/09
65541	Icon Health and Fitness (State)	Logan, UT	03/10/09	02/09/09
65542	Momentive Performance Materials (Wkrs)	Hebron, OH	03/10/09	03/09/09
65543	Imperial Carbide, Inc. (Comp)	Meadville, PA	03/10/09	03/06/09
65544	Rund Lighting, Inc. (Wkrs)	Racine, WI	03/10/09	03/04/09
65545	Jeld-Wen Wood Fiber Division (Comp)	White Swan, WA	03/10/09	03/03/09
65546	Eco-Resin (Wkrs)	Forest City, NC	03/10/09	02/27/09
65547	Arvin Meritor (Wkrs)	Mullins, SC	03/10/09	02/23/09
65548	Mine Safety Appliances Dept. 151 (Wkrs)	Murrysville, PA	03/10/09	03/05/09
65549	Maverick Tube LLC (Comp)	Houston, TX	03/11/09	02/18/09
65550	Ceridian Corporation (Wkrs)	Minneapolis, MN	03/11/09	02/12/09
65551	Henman Engineering and Machine, Inc. (Wkrs)	Muncie, IN	03/11/09	02/23/09
65552	Datwyler Rubber and Plastic (Wkrs)	Marion, SC	03/11/09	02/20/09
65553	GKN Sinter Metals (Comp)	DuBois, PA	03/11/09	03/10/09
65554	Tube Fab/Roman Engineering (Wkrs)	East Afton, MI	03/11/09	03/03/09
65555	Whitepath Fab Tech, Inc. (Comp)	Ellijay, GA	03/11/09	03/06/09

APPENDIX—Continued

[TAA petitions instituted between 3/9/09 and 3/13/09]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
65556	Samsung Austin Semiconductor (Wkrs)	Austin, TX	03/11/09	02/25/09
65557	Metaldyne (Wkrs)	Twinsburg, OH	03/11/09	03/10/09
65558	Hon Company HNI (Wkrs)	Owensboro, KY	03/11/09	03/09/09
65559	Data Technology (Comp)	Wilmington, MA	03/11/09	03/04/09
65560	True Textiles, Inc. (Comp)	Grand Rapids, MI	03/11/09	03/10/09
65561	Liberty Iron and Metal, LLC (Comp)	Erie, PA	03/11/09	03/10/09
65562	Maverick Tube, LLC (Comp)	Conroe, TX	03/11/09	02/18/09
65563	MEI, LLC (Wkrs)	Albany, OR	03/11/09	03/10/09
65564	General Motors Corporation/Global Purchasing (Wkrs)	Warren, MI	03/11/09	02/12/09
65565	Chrysler Quality Engineering Center (UAW)	Auburn Hills, MI	03/11/09	02/04/09
65566	Chrysler LLC (UAW)	Detroit, MI	03/11/09	02/04/09
65567	Webb Wheel Products, Inc. (Wkrs)	Cullman, AL	03/11/09	03/09/09
65568	Metal Powder Products (IUECWA)	St. Marys, PA	03/11/09	03/10/09
65569	Chrysler, LLC (State)	Auburn Hills, MI	03/11/09	02/17/09
65570	Pentair Water Pool and Spa (Wkrs)	Auburn, CA	03/12/09	03/11/09
65571	Chrysler Corporation, LLC (Technology Ctr) (Wkrs)	Warren, MI	03/12/09	03/07/09
65572	BHP Billiton (Comp)	Miami, AZ	03/12/09	02/27/09
65573	Excalibur Machine Company, Inc. (Comp)	Conneaut Lake, PA	03/12/09	02/24/09
65574	TrimMasters, Inc. (Comp)	Bardstown, KY	03/12/09	02/27/09
65575	Focus Products Group/Swing-A–Way (Comp)	St. Louis, MO	03/12/09	03/09/09
65576	SGL Carbon, LLC (IUECWA)	St. Marys, PA	03/12/09	03/11/09
65577	Behr Dayton Thermal Products (IUECWA)	Dayton, OH	03/12/09	03/11/09
65578	Lyon Workspace Products (USW)	Montgomery, IL	03/12/09	03/01/09
65579	Multi-Plastics, Inc. (Comp)	Saegertown, PA	03/12/09	02/24/09
65580	Sipco, Inc. (Comp)	Meadville, PA	03/12/09	02/24/09
65581	Form Tech Industries, LLC (Comp)	Minerva, OH	03/12/09	03/11/09
65582	Collins and Aikman products Company (Wkrs)	Detroit, MI	03/12/09	03/10/09
65583	Autosplice, Inc. (Comp)	San Diego, CA	03/12/09	03/11/09
65584	Tyco Electronics Corp. (Wkrs)	Jonestown, PA	03/13/09	02/26/09
65585	Simpson Door Company (Comp)	Centralia, WA	03/13/09	03/11/09
65586	Eaton Corporation (Comp)	Greenfield, IN	03/13/09	03/12/09
65587	ClearComm Communication (State)	Alameda, CA	03/13/09	03/12/09
65588	Finish Line Hosiery, Inc. (Comp)	Fort Payne, AL	03/13/09	03/11/09
65589	AZ Automotive (UAW)	Roseville, MI	03/13/09	03/06/09
65590	Johnson Controlls, Inc. (Comp)	Pulaski, TN	03/13/09	03/12/09
65591	ABF Freight Systems, Inc. (Wkrs)	Dayton, OH	03/13/09	03/12/09

[FR Doc. E9–7793 Filed 4–6–09; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,858]

Wabash Alloys, LLC, a Subsidiary of Aleris International, Inc., Tipton, IN; Notice of Negative Determination Regarding Application for Reconsideration

By application dated March 17, 2009, United Steelworkers of America, Local 2958 requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on February 6, 2009 and published in the **Federal Register** on March 3, 2009 (74 FR 9283).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The initial investigation resulted in a negative determination which was based on the finding that Wabash Alloys, LLC, a subsidiary of Aleris International, Inc., Tipton, Indiana did not supply component parts to a primary firm whose workers were certified eligible to apply for trade adjustment assistance. Furthermore, the investigation also determined that imports of aluminum alloys did not contribute importantly to worker separations at the subject plant nor was there a shift of production to a country during the relevant period.

In the request for reconsideration the petitioner alleged that the subject firm supplied aluminum alloys to a customer which is under current certification.

For certification on the basis of the workers' firm being a secondary upstream supplier, the subject firm must produce component parts to a firm which received certification of eligibility for TAA as a primary impacted firm. The Department has reviewed the record and determined that the customer to which the subject firm supplied components was not certified as a primary firm but was certified for TAA on the basis of a secondary impact.

The petitioner did not supply facts not previously considered; nor provide additional documentation indicating that there was either (1) a mistake in the determination of facts not previously considered or 2) a misinterpretation of facts or of the law justifying reconsideration of the initial determination.

After careful review of the request for reconsideration, the Department determines that 29 CFR 90.18(c) has not been met.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed in Washington, DC, this 24th day of March 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7803 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,505]

SB Acquisition, LLC, dba Saunders Brothers, Including On-Site Leased Workers From Manpower, Fryeburg, ME; Notice of Revised Determination on Reconsideration

On February 23, 2009, the Department issued an Affirmative Determination Regarding Application for Reconsideration applicable to workers and former workers of the subject firm. The notice was published in the **Federal Register** on March 4, 2009 (74 FR 9432).

The previous investigation initiated on November 21, 2008, resulted in a negative determination issued on January 2, 2009, was based on the finding that sales and production at the subject firm increased during the period of January through November 2008, when compared to the same period in 2007. The denial notice was published in the **Federal Register** on January 26, 2009 (74 FR 4464).

In the request for reconsideration, the petitioner provided additional information regarding the subject firm's monthly sales of wood products (dowels) and imports of these products by the subject firm into the United States.

The Department carefully reviewed the information provided during the initial investigation and on reconsideration and has determined that sales, production and employment at the subject firm declined during the relevant period. Furthermore, the investigation revealed that company-wide imports of wood products increased during the relevant period.

In accordance with Section 246 the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor herein presents the results of its investigation regarding certification of eligibility to apply for alternative trade adjustment assistance (ATAA) for older workers.

In order for the Department to issue a certification of eligibility to apply for ATAA, the group eligibility requirements of Section 246 of the Trade Act must be met. The Department has determined in this case that the requirements of Section 246 have been met.

A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

Conclusion

After careful review of the additional facts obtained on reconsideration, I determine that increased imports of wood products, produced by SB Acquisition, LLC, dba Saunders Brothers, Fryeburg, Maine contributed importantly to the total or partial separation of workers and to the decline in sales or production at that firm or subdivision. In accordance with the provisions of the Act, I make the following certification:

All workers of SB Acquisition, LLC, dba Saunders Brothers, including on-site leased workers from Manpower, Fryeburg, Maine, who became totally or partially separated from employment on or after November 20, 2007, through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed in Washington, DC this 31st day of March 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7799 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,328]

JELD–WEN Premium Woods Doors, Oshkosh, WI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 23, 2009 in response to a petition filed by a company official on behalf of workers of JELD–WEN Premium Woods Doors, Oshkosh, Wisconsin.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 20th day of March 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7756 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,926]

Ray Lewis & Son, Marysville, OH; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 22, 2009 in response to a worker petition filed on behalf of workers at Ray Lewis & Son, Marysville, Ohio.

The petitioners have requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 19th day of March 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7735 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,020]

Asteel Flash, Inc., Fremont, CA; Notice of Termination of Investigation

In accordance with Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 29, 2009 in response to a petition filed by a California State Workforce Office representative on behalf of workers of Asteel Flash, Inc., Fremont, California.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 20th day of March 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7737 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,049]

Entegris Inc., Chaska, MN; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 30, 2009 in response to a petition filed by a state agency representative on behalf of workers of Entegris Inc., Chaska, Minnesota.

The petitioner has requested that the petition be withdrawn. Therefore, the investigation under this petition has been terminated.

Signed at Washington, DC, this 19th day of March 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7739 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,082]

Panel Crafters, Inc., White City, OR; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 3, 2009 in response to a petition filed by a company official on behalf of workers of Panel Crafters, Inc., White City, Oregon.

The petitioners have requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 19th day of March 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7741 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,313]

Delphi Packard Electrical/Electronic Architecture, Packard Division, Warren, OH; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 19, 2009 in response to a petition filed by the International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers—Communication Workers of America on behalf of workers of Delphi Packard Electrical/Electronic Architecture, Packard Division, Warren, Ohio.

The petitioners have requested that the petition be withdrawn. Therefore, the investigation under this petition has been terminated.

Signed at Washington, DC, this 20th day of March 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7755 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TAA–65,253]

CB&I Inc., Warren, PA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 13, 2009, in response to a petition filed by the International Brotherhood of Boilermakers on behalf of workers of CB&I Inc., Warren, Pennsylvania.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 26th day of March 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7753 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,233]

KGP Telecommunications, Inc., Fairbault, MN; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 12, 2009, in response to a worker petition filed by the State of Minnesota on behalf of workers at KGP Telecommunications, Inc., Fairbault, Minnesota.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 20th day of March 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7752 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,194]

RR Donnelley and Sons, Inc.: Long Prairie, MN; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 10, 2009, in response to a worker petition filed by the State of Minnesota on behalf of workers at RR Donnelley and Sons, Inc., Long Prairie, Minnesota.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 20th day of March 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7750 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,099]

McMurray Fabrics, Inc., Aberdeen, NC; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 3, 2009 in response to a petition filed on behalf of workers of McMurray Fabrics, Inc., Aberdeen, North Carolina.

The petitioners have requested that the petition be withdrawn. Therefore, the investigation under this petition has been terminated.

Signed at Washington, DC, this 19th day of March 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7743 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,096]

Tyco Electronics Corporation, Communication and Industrial Solutions Division, Emigsville, PA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 3, 2009 in response to a petition file by a company official on behalf of workers of Tyco Electronics Corporation, Communication and Industrial Solutions Division, Emigsville, Pennsylvania.

The petitioner has requested that the petition be withdrawn. Therefore, the investigation under this petition has been terminated.

Signed at Washington, DC, this 19th day of March 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7742 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,498]

Mine Safety Appliances, Callery, PA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 5, 2009 in response to a petition filed on behalf of workers of Mine Safety Appliances, Callery, Pennsylvania.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 19th day of March 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7763 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,438]

Gulliver's Travels, Inc., Sarasota, FL; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 6, 2009, in response to a petition filed on behalf of workers of Gulliver's Travels, Inc., Sarasota, Florida.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 20th day of March 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7762 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,434]

JL French Automotive Castings, Inc., Sheboygan, WI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 27, 2009 in response to a petition filed by a company official on behalf of workers of JL French Automotive Castings, Inc., Sheboygan, Wisconsin.

The petitioner has requested that the petition be withdrawn. Therefore, the investigation under this petition has been terminated.

Signed at Washington, DC, this 19th day of March 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7761 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,428]

Multi-Plex: Howe, IN; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 27, 2009 in response to a worker petition filed on behalf of workers of Multi-Plex, Howe, Indiana.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 19th day of March 2009.

Linda G. Poole

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7760 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,377]

Watertronics, Heartland, WI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 25, 2009 in response to a petition filed by a One-Stop Operator on behalf of workers of Watertronics, Heartland, Wisconsin.

The petitioner has requested that the petition be withdrawn. Therefore, the investigation under this petition has been terminated.

Signed at Washington, DC, this 19th day of March 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7759 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,357]

Kelly Lumber, Ashland, ME; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 24, 2009 in response to a worker petition filed the Maine TAA Coordinator on behalf of workers at Kelly Lumber, Ashland, Maine.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 19th day of March 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7758 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,207]

International Paper, CTA—Industrial Packaging Division, Howell, MI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 10, 2009, in response to a petition filed by a company official on behalf of workers at International Paper, CTA—Industrial Packaging Division, Howell, Michigan.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 20th day of March 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7751 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,165]

Chrysler National Customer Service, Rochester Hills, MI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 9, 2009 in response to a petition filed by the International Union, United Automobile, United Aerospace and Agricultural Implement Workers of America, Local 889 on behalf of workers of Chrysler National Customer Service Center, Rochester Hills, Michigan.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 19th day of March 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7748 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,060]

International Auto Components, LLC, (Formerly Lear Corporation), Sidney, OH; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 2, 2009, in response to a petition filed by a company official on behalf of workers at International Auto Components, LLC (formerly Lear Corporation), Sidney, Ohio.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 20th day of March 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7740 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,030]

Circuit Science, Inc., Plymouth, MN; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 29, 2009 in response to a petition filed by a state agency representative on behalf of workers of Circuit Science, Plymouth, Minnesota.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 19th day of March 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7738 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,928]

Advanced Micro Devices, Inc., Assembly Process Division, Sunnyvale, CA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 22, 2009, in response to a worker petition filed on behalf of workers at Advanced Micro Devices, Inc., Assembly Process Division, Sunnyvale, California.

The petitioners have requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 12th day of March 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7736 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,619]

National Mills, Incorporated, Pittsburg, KS; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 17, 2009 in response to a petition filed by a company official on behalf of workers of National Mills, Incorporated, Pittsburg, Kansas.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 20th day of March 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7734 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,112]

Vesuvius USA Corporation, Fisher Illinois Manufacturing Facility, Fisher, IL; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 4, 2009 in response to a petition file by a company official on behalf of workers of Vesuvius USA Corporation—Fisher Illinois Manufacturing Facility, a subsidiary of Cookson America, Incorporated, Fisher, Illinois.

The petitioner has requested that the petition be withdrawn. Therefore, the investigation under this petition has been terminated.

Signed at Washington, DC, this 19th day of March, 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7744 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,256]

Pine Hosiery Mills, Incorporated, Star, NC; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 17, 2009 in response to a petition filed by a company official on behalf of workers of Pine Hosiery Mills, Incorporated, Star, North Carolina.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 16th day of March 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7754 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,132]

Blount, Inc.: Milwaukie, OR; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 5, 2009 in response to a worker petition filed by a company official, on behalf of workers of Blount, Inc., Milwaukie, Oregon.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 20th day of February 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7746 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,114]

SPS Technology, Waterford, MI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 4, 2009 in response to a petition filed on behalf of workers at SPS Technology, Waterford, Michigan.

The petitioners requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 16th day of March 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7745 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,181]

Stanley Access Technologies, a Subsidiary of Stanley Works, Farmington, CT; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 9, 2009 in response to a petition filed by a state agency representative on behalf of workers of Stanley Access Technologies, a subsidiary of Stanley Works, Farmington, Connecticut.

The petitioner has requested that the petition be withdrawn. Therefore, the investigation under this petition has been terminated.

Signed at Washington, DC, this 20th of March 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7749 Filed 4–9–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,141]

Seagate Technology, Bloomington, MN; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 5, 2009 in response to a petition filed by a company official on behalf of workers of Seagate Technology, Bloomington, Minnesota.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 20th day of March 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–7747 Filed 4–6–09; 8:45 am]

BILLING CODE 4510–FN–P

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

Sunshine Act Meetings

TIME AND DATE: 9 a.m. to 12 p.m., Friday, April 17, 2009.

PLACE: The University of Arizona Foundation's Vine Street Annex, Room 102, 1125 N. Vine Street, Tucson, AZ 85719.

STATUS: This meeting will be open to the public, unless it is necessary for the Board to consider items in executive session.

MATTERS TO BE CONSIDERED: (1) A report on the U.S. Institute for Environmental Conflict Resolution; (2) A report from the Udall Center for Studies in Public Policy; (3) A report on the Native Nations Institute; (4) Program Reports; and (5) A Report from the Management Committee.

PORTIONS OPEN TO THE PUBLIC: All sessions with the exception of the session listed below.

PORTIONS CLOSED TO THE PUBLIC: Executive session.

CONTACT PERSON FOR MORE INFORMATION: Ellen K. Wheeler, Executive Director, 130 South Scott Avenue, Tucson, AZ 85701, (520) 901–8500.

Dated: March 31, 2009.

Ellen K. Wheeler,

Executive Director, Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and Federal Register Liaison Officer.

[FR Doc. E9–7602 Filed 4–6–09; 8:45 am]

BILLING CODE 6820–FN–M

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0148]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from March 12, 2009 to March 25, 2009. The last biweekly notice was published on March 24, 2009 (74 FR 12390).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rulemaking and Directives Branch, TWB–05–B01M, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Copies of written comments received may be examined at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons

why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner/requestor intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August 28, 2007 (72 FR 49139). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least five (5) days prior to the filing deadline, the petitioner/requestor must contact the Office of the Secretary by e-mail at *hearingdocket@nrc.gov,* or by calling (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/requestor will need to download the Workplace Forms Viewer ™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer ™ is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html.* Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.*

Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC electronic filing Help Desk, which is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays. The help electronic filing 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).

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp*, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to this amendment action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr.resource@nrc.gov*.

Duke Energy Carolinas, LLC, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: September 2, 2008.

Description of amendment request: The amendments would revise the technical specifications to allow manual operation of the containment spray system and to revise the upper and lower limits of the refueling water storage tank.

Basis for proposed no significant hazards consideration determination: As required by Title 10 of the *Code of Federal Regulations* (10 CFR) 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The Containment Spray System and RWST [refueling water storage tank] are accident mitigation equipment. As such, changes in operation of these systems cannot have an impact on the probability of an accident.

The RWST will continue to comply with all applicable regulatory requirements and design criteria following approval of the proposed changes (*e.g.*, train separation, redundancy, and single failure). The water level on the containment floor will be higher at the start of transfer to the containment sump but will remain below the maximum design level analyzed for equipment submergence. The change in the sump pH will not result in a significant increase in radiological consequences of a LOCA [loss of coolant accident]. Therefore, the design functions performed by the equipment are not changed.

The delay in containment spray operation will result in an increase in containment temperature, containment pressure, offsite dose, and control room dose during a LOCA or high energy line break inside containment. Containment analyses have been performed to demonstrate that containment pressure and temperature remain within the design limits and there is no significant impact on the environmental qualification for equipment inside containment. The impact on piping and supports is acceptable without modification. The reduction in fission product removal due to delayed containment spray operation does not result in exceeding the offsite dose and control room dose limits in 10 CFR 50.67 and 10 CFR Part 50, Appendix A, GDC 19. The analysis of the change in containment conditions due to a single failure of an operating spray pump and the suspension of containment spray determined that the pressure remained below the design limits.

Regarding the proposed change to adopt TSTF–493, Rev. 3 on a limited basis, the change clarifies the requirements for instrumentation to ensure the instrumentation will actuate as assumed in the safety analysis. Instruments are not an assumed initiator of any accident previously evaluated. As a result, the proposed change will not increase the probability of an accident previously evaluated. The proposed change will ensure that the instruments actuate as assumed to mitigate the accidents previously evaluated. As a result, the proposed change will not increase the consequences of an accident previously evaluated.

Based on this discussion, the proposed amendment does not significantly increase the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The modifications to install RWST narrow range level indication will be seismically qualified and isolated from the safety related portion of the RWST level indication system. As such, the new level indication will not create the possibility of a new or different kind of accident.

The modification to the low level setpoint will not install any new plant equipment. The setpoint will continue to be included within the engineered safeguards features instrumentation and monitored according to the applicable surveillance requirements. The evaluation of the new level setpoint and the change in the swapover sequence concluded that the equipment aligned to the sump will continue to have sufficient suction pressure prior to containment sump suction swapover. The design of the RWST low level instrumentation-complies with all applicable regulatory requirements and design criteria.

The overall function of the Containment Spray System is not changed by this proposed amendment. The proposed change alters the method of controlling the safety system following a design basis event so that manual actions are substituted for automatic actions. Calculations confirm that these actions will be taken within the appropriate scenario sequence timing to provide containment cooling and source term reduction with no significant increase in radiological consequences and without exceeding containment design limits.

Regarding the proposed change to adopt TSTF–493, Rev. 3 on a limited basis, the change does not involve a physical alteration of the plant (*i.e.*, no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. The change does not alter assumptions made in the safety analysis but ensures that the instruments behave as assumed in the accident analysis. The proposed change is consistent with the safety analysis assumptions.

Therefore, the proposed change does not create the possibility of a new or

different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in the margin of safety?

Response: No.

The proposed change has the potential to increase the radiological dose at the site boundary and in the control room. However, the calculations demonstrate that the dose consequences at the site boundary, low population zone, and control room remain within regulatory acceptance limits. Additional analysis concluded:

- Peak containment pressure for analyzed design basis accidents will not be significantly increased and containment design limits will not be exceeded.
- Assumptions used in the environmental qualification of equipment exposed to the containment atmosphere remain bounding.
- Pumps aligned to the RWST and to the containment sump will have adequate suction pressure.

Regarding the proposed change to adopt TSTF–493, Rev. 3 on a limited basis, the change clarifies the requirements for instrumentation to ensure the instrumentation will actuate as assumed in the accident analysis. No change is made to the accident analysis assumptions and no margin of safety is reduced as part of this change.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Lisa F. Vaughn, Associate General Counsel and Managing Attorney, Duke Energy Carolinas, LLC, 526 South Church Street, EC07H, Charlotte, NC 28202.

NRC Branch Chief: Melanie C. Wong.

Duke Energy Carolinas, LLC, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: October 2, 2008.

Description of amendment request: The amendments would revise Technical Specifications (TS) associated with the verification of ice condenser door operability. The proposed amendment affects the current TS surveillance requirements 3.6.13.5 and 3.6.13.6.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The only analyzed accidents of possible consideration in regards to changes potentially affecting the ice condenser are a loss of coolant accident (LOCA) and a high energy line break (HELB) inside Containment. However, the ice condenser is not postulated as being the initiator of any LOCA or HELB. This is because it is designed to remain functional following a design basis earthquake, and the ice condenser does not interconnect or interact with any systems that interconnect or interact with the Reactor Coolant or Main Steam Systems. Since these proposed changes do not result in, or require, any physical change to the ice condenser that could introduce an interaction with the Reactor Coolant or Main Steam Systems, then there can be no change in the probability of an accident previously evaluated. Regarding consequences of analyzed accidents, the ice condenser is an engineered safety feature designed, in part, to limit the Containment sub-compartment and Containment vessel pressure immediately following the initiation of a LOCA or HELB. Conservative sub-compartment and Containment pressure analysis shows these criteria will be met if the total ice mass within the ice bed is maintained in accordance with the DBA analysis; therefore, the proposed TS [Technical Specification] SR [surveillance requirement] changes of these requirements will not increase the consequences of any accident previously evaluated.

Thus, based on the above, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

As previously described, the ice condenser is not postulated as being the initiator of any design basis accident. The proposed changes do not impact any plant system, structure or component that is an accident initiator. The proposed TSs and TS Bases changes do not involve any hardware changes to the ice condenser or other change that could create any new accident mechanisms. Therefore, there can be no new or different accidents created from those already identified and evaluated

3. Does the proposed amendment involve a significant reduction in the margin of safety?

Response: No.

Margin of safety is related to the confidence in the ability of the fission product barriers to perform their design functions during and following an accident situation. These barriers include the fuel cladding, the reactor coolant system, and the Containment system. The performance of the fuel cladding and the reactor coolant system will not be impacted by the proposed changes. The Application provides a description of additional sub-compartment and Containment pressure response analysis that has been performed. This analysis demonstrates that Containment will remain fully capable of performing its design function with implementation of the proposed changes. Therefore, no safety margin will be significantly impacted.

The changes proposed in this LAR [license amendment request] do not make any physical alteration to the ice condenser doors, nor does it affect the required functional capability of the doors in any way. The intent of the proposed changes to the ice condenser door surveillance requirements is to eliminate an unnecessary and overly restrictive Lower Inlet Door torque surveillance test. There will be no degradation in the operable status of the ice condenser doors and the ability to confirm operability for the ice condenser doors will be maintained, such that the doors will continue to fully perform their safety function as assumed in the plant's safety analyses.

Thus, it can be concluded that the proposed TS and TS Bases changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Lisa F. Vaughn, Associate General Counsel and Managing Attorney, Duke Energy Carolinas, LLC, 526 South Church Street, EC07H, Charlotte, NC 28202.

NRC Branch Chief: Melanie C. Wong.

Duke Energy Carolinas, LLC, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: October 8, 2008.

Description of amendment request: The amendments would revise the Technical Specifications (TSs) by removing and updating portions of the TSs which are out of date or are obsolete including footnotes and references.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes are administrative in nature and therefore they do not involve any change in the design, configuration, or operation of the nuclear units. All Limiting Conditions for Operation, Limiting Safety System Settings and Safety Limits specified in the Technical Specifications remain unchanged. The Physical Security and related plans, Operator Training and Requalification Programs, Quality Assurance Programs, and the Emergency Plans will not be materially changed by the proposed license amendment due to its administrative nature.

The technical qualifications of the operating licensee will not be reduced. Personnel engaged in operation, maintenance, engineering, assessment, training, and other related services will not be changed. Duke officers and executives currently responsible for the overall safe operation of the nuclear plants are expected to continue in the same capacity.

Therefore, the proposed amendment does not involve an increase in the probability or consequences of an accident previously analyzed.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes are administrative in nature and therefore they do not involve any change in the design, configuration, or operation of the nuclear plant. The current plant safety analyses, therefore, remain complete and accurate in addressing the design basis events and in analyzing plant response and consequences.

The Limiting Conditions for Operations, Limiting Safety System Settings and Safety Limits specified in the Technical Specifications are not affected by the proposed changes. As such, the plant conditions for which the design basis accident analyses were performed remain valid.

The amendment does not introduce a new mode of plant operation or new accident precursors, does not involve any physical alterations to plant configurations or make changes to system set points that could initiate a new or different kind of accident.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes are administrative in nature and therefore they do not involve a change in the design, configuration, or operation of the nuclear plants. The change does not affect either the way in which the plant, structures, systems, and components perform their safety function or their design and licensing bases.

Plant safety margins are established through Limiting Conditions for Operation, Limiting Safety System Settings and Safety Limits specified in the Technical Specifications. Because there is no change to the physical design of the plant, there is no change to any of these margins.

Therefore, the proposed amendment does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Lisa F. Vaughn, Associate General Counsel and Managing Attorney, Duke Energy Carolinas, LLC, 526 South Church Street, EC07H, Charlotte, NC 28202.

NRC Branch Chief: Melanie C. Wong.

Duke Energy Carolinas, LLC, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: October 14, 2008.

Description of amendment request: The amendments would revise the Technical Specification [TS] Administrative Controls, ''Inservice Testing Program,'' for consistency with the requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) 50.55a(f)(4) for pumps and valves which are classified as American Society of Mechanical Engineers [ASME] Code Class 1, Class 2, and Class 3.

Basis for proposed no significant hazards consideration determination: As required by

10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes revise TS 5.5.8, ''Inservice Testing Program,'' for consistency with the requirements of 10 CFR 50.55a(f)(4) regarding the inservice testing of pumps and valves which are classified as ASME Code Class 1, Class 2, and Class 3. The proposed changes incorporate revisions to the ASME Code that result in a net improvement in the measures for testing pumps and valves.

The proposed changes do not impact any accident initiators or analyzed events or assumed mitigation of accident or transient events. The proposed change does not involve the addition or removal of any equipment, or any design changes to the facility. Therefore, these proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes revise TS 5.5.8, ''Inservice Testing Program,'' for consistency with the requirements of 10 CFR 50.55a(f)(4) regarding the inservice testing of pumps and valves which are classified as ASME Code Class 1, Class 2, and Class 3. The proposed changes incorporate revisions to the ASME Code that result in a net improvement in the measures for testing pumps and valves.

The proposed changes do not involve a modification to the physical configuration of the plant nor does it involve a change in the methods governing normal plant operation. The proposed changes will not impose any new or different requirements or introduce a new accident initiator, accident precursor, or malfunction mechanism. Additionally, there is no change in the types or increases in the amounts of any effluent that may be released offsite and there is no increase in individual or cumulative occupational exposure. Therefore, the

proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes revise TS 5.5.8, ''Inservice Testing Program,'' for consistency with the requirements of 10 CFR 50.55a(f)(4) regarding the inservice testing of pumps and valves which are classified as ASME Code Class 1, Class 2, and Class 3. The proposed changes do not involve a modification to the physical configuration of the plant nor does it change the methods governing normal plant operation. The proposed changes incorporate revisions to the ASME Code that result in a net improvement in the measures for testing pumps and valves. The safety function of the affected pumps and valves will be maintained. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Lisa F. Vaughn, Associate General Counsel and Managing Attorney, Duke Energy Carolinas, LLC, 526 South Church Street, EC07H, Charlotte, NC 28202.

NRC Branch Chief: Melanie C. Wong.

Duke Energy Carolinas, LLC, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: October 2, 2008.

Description of amendment request: The proposed amendments would revise technical specifications (TS) associated with the verification of ice condenser door operability. The proposed amendment affects the current TS surveillance requirements 3.6.13.5 and 3.6.13.6.

Basis for proposed no significant hazards consideration determination: As required by Title 10 of the *Code of Federal Regulations* (10 CFR) 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The only analyzed accidents of possible consideration in regards to changes potentially affecting the ice condenser are a loss of coolant accident (LOCA) and a high energy line break (HELB) inside Containment. However, the ice condenser is not postulated as being the initiator of any LOCA or HELB. This is because it is designed to remain functional following a design basis earthquake, and the ice condenser does not interconnect or interact with any systems that interconnect or interact with the Reactor Coolant or Main Steam Systems. Since these proposed changes do not result in, or require, any physical change to the ice condenser that could introduce an interaction with the Reactor Coolant or Main Steam Systems, then there can be no change in the probability of an accident previously evaluated. Regarding consequences of analyzed accidents, the ice condenser is an engineered safety feature designed, in part, to limit the Containment sub-compartment and Containment vessel pressure immediately following the initiation of a LOCA or HELB. Conservative sub-compartment and Containment pressure analysis shows these criteria will be met if the total ice mass within the ice bed is maintained in accordance with the DBA analysis; therefore, the proposed TS [technical specification] SR [surveillance requirement] changes of these requirements will not increase the consequences of any accident previously evaluated.

Thus, based on the above, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

As previously described, the ice condenser is not postulated as being the initiator of any design basis accident. The proposed changes do not impact any plant system, structure or component that is an accident initiator. The proposed TSs and TS Bases changes do not involve any hardware changes to the ice condenser or other change that could create any new accident mechanisms. Therefore, there can be no new or different accidents created from those already identified and evaluated.

3. Does the proposed amendment involve a significant reduction in the margin of safety?

Response: No.

Margin of safety is related to the confidence in the ability of the fission product barriers to perform their design functions during and following an accident situation. These barriers include the fuel cladding, the reactor coolant system, and the Containment system. The performance of the fuel cladding and the reactor coolant system will not be impacted by the proposed changes. The Application provides a description of additional sub-compartment and Containment pressure response analysis that has been performed. This analysis demonstrates that Containment will remain fully capable of performing its design function with implementation of the proposed changes. Therefore, no safety margin will be significantly impacted.

The changes proposed in this LAR [license amendment request] do not make any physical alteration to the ice condenser doors, nor does it affect the required functional capability of the doors in any way. The intent of the proposed changes to the ice condenser door surveillance requirements is to eliminate an unnecessary and overly restrictive Lower Inlet Door torque surveillance test. There will be no degradation in the operable status of the ice condenser doors and the ability to confirm operability for the ice condenser doors will be maintained, such that the doors will continue to fully perform their safety function as assumed in the plant's safety analyses.

Thus, it can be concluded that the proposed TS and TS Bases changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Lisa F. Vaughn, Associate General Counsel and Managing Attorney, Duke Energy Carolinas, LLC, 526 South Church Street, EC07H, Charlotte, NC 28202.

NRC Branch Chief: Melanie Wong.

Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc., Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: February 24, 2009.

Description of amendment request: The proposed amendment would revise the Technical Specification (TS) Surveillance Requirement (SR) that governs operability testing of the pressure suppression chamber-drywell vacuum breakers to incorporate the SR contained within the Standard

Technical Specifications (STS), NUREG–1433 and delete the SR that requires inspection of the pressure suppression chamber-drywell vacuum breakers. Periodic inspections of the pressure suppression chamber-drywell vacuum breakers are not required by the STS.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The operation of Vermont Yankee Nuclear Power Station (VY) in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment does not impact the operability of any structure, system or component that affects the probability of an accident or that supports mitigation of an accident previously evaluated. The proposed amendment does not affect reactor operations or accident analysis and has no radiological consequences. The operability requirements for accident mitigation systems remain consistent with the licensing and design basis. Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The operation of VY in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment does not change the design or function of any component or system. No new modes of failure or initiating events are being introduced. Therefore, operation of VY in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The operation of VY in accordance with the proposed amendment will not involve a significant reduction in a margin of safety.

The proposed amendment does not change the design or function of any component or system. The proposed amendment does not involve any safety limits, safety settings or safety margins. The ability of the pressure suppression chamber-drywell vacuum breakers to perform its intended function will continue to be required in accordance with the VY Technical Specifications.

Since the proposed controls are adequate to ensure the operability of the pressure suppression chamber-drywell vacuum breakers, there will still be high assurance that the components are operable and capable of performing their respective functions. Therefore, operation of VY in accordance with the proposed amendment will not involve a significant reduction in the margin to safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. William C. Dennis, Assistant General Counsel, Entergy Nuclear Operations, Inc., 400 Hamilton Avenue, White Plains, NY 10601.

NRC Branch Chief: Mark G. Kowal.

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of amendment request: October 23, 2008.

Description of amendment request: The proposed amendments would revise the Technical Specifications (TS) to support the application of alternative source term (AST) methodology with respect to the loss-of-coolant accident and the fuel handling accident. The proposed request is to support a full-scope application of an AST methodology, with the exception that Technical Information Document (TID)–14844, ''Calculation of Distance Factors for Power and Test Reactor Sites,'' will continue to be used as the radiation dose basis for equipment qualification.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The implementation of AST assumptions has been evaluated in revisions to the analyses of the following limiting design basis accidents at LSCS [LaSalle County Station]:

- Loss-of-Coolant Accident, and
- Fuel Handling Accident

Based upon the results of these analyses, it has been demonstrated that, with the requested changes, the dose consequences of these limiting events are within the regulatory requirements and guidance provided by the NRC for use with AST. The regulatory requirements and guidance is presented in 10 CFR 50.67, ''Accident source term,'' and associated NRC Regulatory Guide 1.183 and Standard Review Plan section 15.0.1. The AST is an input to calculations used to evaluate the consequences of an accident, and does not by itself affect the plant response, or the actual pathway of the radiation released from the fuel. It does, however, better represent the physical characteristics of the release, so that appropriate mitigation techniques may be applied. Therefore, the consequences of an accident previously evaluated are not significantly increased.

The equipment affected by the proposed change is mitigative in nature, and relied upon after an accident has been initiated. Application of the AST does not involve any physical changes to the TS, while they revise certain performance requirements, do not involve any physical modifications to the plant. As a result, the proposed changes do not affect any of the parameters or conditions that could contribute to the initiation of any accidents. As such, removal of operability requirements during the specified conditions will not significantly increase the probability of occurrence for an accident previously analyzed. Since plant design basis accidents initiators are not being altered by adoption of the AST analyses, the probability of an accident previously evaluated is not affected.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed and there are no physical modifications to existing equipment associated with the proposed change). Similarly, it does not physically change any structures, systems, or components involved in the mitigation of any accidents. Thus, no new initiators or precursors of a new or different kind of accident are created.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Safety margins and analytical conservatisms have been evaluated and have been found to be acceptable. The analyzed events have been carefully selected and margin has been retained to ensure that the analyses adequately bound postulated event scenarios. The dose consequences due to design basis accidents comply with the requirements of 10 CFR 50.67 and guidance of Regulatory Guide 1.183.

The proposed change is associated with the implementation of a new licensing basis for LSCS design basis accidents. Approval of the change from the original source term to a new source term taken from Regulatory Guide 1.183 is being requested. The results of the accident analyses, revised in support of the proposed license amendment, are subject to revised acceptance criteria. The analyses have been performed using conservative methodologies, as specified in Regulatory Guide 1.183. Safety margins have been evaluated and analytical conservatism has been utilized to ensure that the analyses adequately bound the postulated limiting event scenario. The dose consequences of these design basis accidents remain within the acceptance criteria presented in 10 CFR 50.67 and Regulatory Guide 1.183.

The proposed change continues to ensure that the doses at the exclusion area boundary and low population zone boundary, as well as the control room, are within corresponding regulatory limits.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Mr. Bradley J. Fewell, Associate General Counsel, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: Russell Gibbs.

Luminant Generation Company LLC, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Units 1 and 2, Somervell County, Texas

Date of amendment request: February 11, 2009.

Brief description of amendment: The proposed amendment consists of administrative revision to the operating licenses and Technical Specifications (TSs) to revise the station name from Comanche Peak Steam Electric Station (CPSES) to Comanche Peak Nuclear Power Plant (CPNPP); remove the Table of Contents from TSs and maintain and revise it in accordance with plant administrative procedures; delete TSs 3.2.1.1, 3.2.3.1, 5.5.9.1, 5.6.10 and several footnotes from Tables 3.3.1–1, 3.3.2–1, and TS 3.4.10 since these TSs and footnotes are no longer applicable to CPSES, Units 1 and 2 operation; delete several topical reports from the list of approved analytical methods used to determine core operating limits in TS 5.6.5, no longer in use, since these topical reports have been replaced by standard Westinghouse methods and Westinghouse methods have been approved for use at CPSES, Units 1 and 2, under a separate amendment request; make editorial corrections; and reprint and reissue the entire TS due to adoption of 'FrameMaker' software in place of 'Microsoft Word' software.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change revises the station name, removes the Table of Contents from the Technical Specifications, deletes several Technical Specifications and footnotes which are no longer applicable to [CPSES] Unit 1 or Unit 2 operation, renumbers subsequent Technical Specifications, deletes several topical reports from the list of approved analytical methods used to determine core operating limits, and corrects various editorial and formatting errors. The Table of Contents does not include information required by 10 CFR 50.36 [Title 10 of the *Code of Federal Regulations*, Section 50.36] to be reviewed by the NRC [U.S. Nuclear Regulatory Commission] staff and is not required by the regulation. The Technical Specifications and footnotes which are being deleted were only applicable during previous operational cycles and are now defunct requirements since both Units have completed the applicable operational cycles. The topical reports deleted from Technical Specification 5.6.5b are no longer used to determine the core operating limits for Comanche Peak Nuclear Power Plant. The remaining topical reports listed in Technical Specification 5.6.5b will be used to determine the core operating limits for both Comanche Peak Nuclear Power Plant units. All other changes proposed are corrections of previous inadvertent editorial errors or changes in format to increase conformity with the guidelines described in TSTF–RPT–01, ''Writer's Guide for Plant-Specific Improved Technical Specifications'', published in June, 2005. All of the proposed changes are administrative changes which do not change the meaning, intent, interpretation, or application of the Technical Specifications. None of the proposed changes affect the operation, physical configuration, or function of plant equipment or systems. The changes do not affect the initiators or assumptions of analyzed events; nor do they impact the mitigation of accidents or transient events. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change revises the station name, removes the Table of Contents from the Technical Specifications, deletes several Technical Specifications and footnotes which are no longer applicable to [CPSES,] Unit 1 or Unit 2 operation, renumbers subsequent Technical Specifications, deletes several topical reports from the list of approved analytical methods used to determine core operating limits, and corrects various editorial and formatting errors. The Table of Contents does not include information required by 10 CFR 50.36 to be reviewed by the Nuclear Regulatory Commission staff and is not required by the regulation. The Technical Specifications and footnotes which are being deleted were only applicable during previous operational cycles and are now defunct requirements since both Units have completed the applicable operational cycles. The topical reports deleted from Technical Specification 5.6.5b are no longer used to determine the core operating limits for Comanche Peak Nuclear Power Plant. The remaining topical reports listed in Technical Specification 5.6.5b will be used to determine the core operating limits for both Comanche Peak Nuclear Power Plant units. All other changes proposed are corrections of previous inadvertent editorial errors or changes in format to increase conformity with the guidelines described in TSTF–RPT–01, ''Writer's Guide for Plant-Specific Improved Technical Specifications'', published in June, 2005. All of the proposed changes are administrative changes which do not change the meaning, intent,

interpretation, or application of the Technical Specifications. None of the changes alter the plant configuration, require installation of new equipment, alter assumptions about previously analyzed accidents, or impact the operation or function of any plant equipment or systems. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

The proposed change revises the station name, removes the Table of Contents from the Technical Specifications, deletes several Technical Specifications and footnotes which are no longer applicable to [CPSES,] Unit 1 or Unit 2 operation, renumbers subsequent Technical Specifications, deletes several topical reports from the list of approved analytical methods used to determine core operating limits, and corrects various editorial and formatting errors. The Table of Contents does not include information required by 10 CFR 50.36 to be reviewed by the Nuclear Regulatory Commission staff and is not required by the regulation. The Technical Specifications and footnotes which are being deleted were only applicable during previous operational cycles and are now defunct requirements since both Units have completed the applicable operational cycles. The topical reports deleted from Technical Specification 5.6.5b are no longer used to determine the core operating limits for Comanche Peak Nuclear Power Plant. The remaining topical reports listed in Technical Specification 5.6.5b will be used to determine the core operating limits for both Comanche Peak Nuclear Power Plant units. All other changes proposed are corrections of previous inadvertent editorial errors or changes in format to increase conformity with the guidelines described in TSTF–RPT–01, ''Writer's Guide for Plant-Specific Improved Technical Specifications'', published in June, 2005. All of the proposed changes are administrative changes which do not change the meaning, intent, interpretation, or application of the Technical Specifications. None of the proposed changes alter the effective technical content of the Technical Specifications. Therefore the proposed changes do not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Timothy P. Matthews, Esq., Morgan, Lewis and Bockius, 1800 M Street, NW., Washington, DC 20036.

NRC Branch Chief: Michael T. Markley.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: October 31, 2008.

Description of amendment request: The proposed amendment modifies the surveillance requirements in Technical Specification (TS) 3.6(3), ''Containment Recirculating Air Cooling and Filtering System,'' and removes the license conditions related to the replacement and testing of containment air cooling and filtering (CACF) unit high-efficiency particulate air (HEPA) filters and surveillance testing of the CACF unit relief ports. These license conditions were committed to by the licensee in its letter dated April 10, 2008 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML081010122), and implemented via TS Amendment No. 255 (ADAMS Accession No. ML081140390), dated May 2, 2008.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The containment air cooling and filtering system (CACFS) is not an initiator of any accident previously evaluated at the Fort Calhoun Station (FCS). The CACFS is an accident mitigation system. The design basis function of the CACFS is to limit the containment pressure rise by providing a means for cooling the containment following a loss-of-coolant accident (LOCA) or main steam line break (MSLB). In accordance with TS Amendment No. 255, the CACFS high efficiency particulate air (HEPA) filters are also credited to reduce post-LOCA radioactive leakage from containment.

The proposed changes provide additional assurance that the CACFS is capable of performing its design and licensing basis functions to mitigate these design basis accidents (DBAs). The CACFS face and bypass dampers are aligned to their accident positions permanently causing the CACFS to operate in filtered air mode. Surveillance testing has shown that operating the system in this alignment over long periods does not jeopardize filter performance. Over the lifetime of the plant, the differential pressures measured across the combined HEPA and charcoal filter banks have met test acceptance criteria.

Increasing the number of surveillance requirements will not adversely affect the function of the CACFS but rather provides additional assurance that the CACFS is capable of responding to a DBA.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The CACFS was designed to remove heat released to the containment atmosphere during a DBA to the extent necessary to maintain the containment structure below its design pressure. The containment airflow continually passes through the cooling coils. The proposed changes to the surveillance requirements do not affect the active function of the CACFS.

The CACFS will continue to operate in normal and accident conditions to remove heat and radioactive particulates and aerosols. The proposed changes enhance surveillance testing of the CACFS by requiring more frequent exercising of the fans, imposing a more stringent pressure drop limit, specifying a HEPA filter replacement interval, and instituting a requirement to exercise the relief ports. These changes ensure that the CACFS is capable of long-term operation in filtered air mode while remaining capable of providing cooling and filtering sufficient to mitigate design basis accidents.

No credible new failure mechanisms, malfunctions, or accident initiators not previously considered in the design and licensing basis are created and none of the initial condition assumptions of any accident evaluated in the safety analysis are impacted.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The containment building and associated penetrations are designed to

withstand an internal pressure of 60 psig [pounds per square inch gauge] at 305°F, including all thermal loads resulting from the temperature associated with this pressure, with a leakage rate of 0.1 percent by weight or less of the contained volume per 24 hours. [Omaha Public Power District] credits the CACFS in the containment pressure analysis for a LOCA, and for the containment pressure response to a main steam line break (MSLB).

The proposed changes impose more stringent surveillance test requirements. This provides additional assurance that the CACFS will perform its design basis and licensing basis functions to be capable of long-term post-DBA operation in filtered air mode to limit the containment temperature and pressure increase to within design limits and to reduce post-LOCA radioactive leakage from containment.

Neither the design basis nor the licensing basis for post-DBA containment heat removal is adversely affected by the proposed changes. The ability to maintain design limits for containment peak pressure and temperature, as well as long-term containment pressure and temperature, are preserved.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: David A. Repka, Esq., Winston & Strawn, 1700 K Street, NW., Washington, DC 20006–3817.

NRC Branch Chief: Michael T. Markley.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: January 30, 2009.

Description of amendment request: The proposed amendment would modify the Fort Calhoun Station (FCS), Unit No. 1, Renewed Operating License No. DPR–40, by adding operability and surveillance testing requirements to the FCS Technical Specifications (TS) for the steam generator (SG) blowdown isolation on a reactor trip. Specifically, the proposed changes will revise TS Limiting Conditions for Operation (LCO) 2.15, *Instrumentation and Control Systems*, Table 2–4, *Instrument Operating Conditions for Isolation Functions*, to include operability requirements for SG blowdown isolation on a reactor trip and to add applicable footnotes. In addition, TS 3.1, *Instrumentation and Control*, Table 3–2, *Minimum Frequencies for Checks, Calibrations and Testing of Engineered Safety Features, Instrumentation and Controls*, is being revised to include the surveillance test requirements for SG blowdown isolation on a reactor trip. An administrative change is also being made to TS LCO 2.15(1), to delete the words ''key operated'' as the ''key'' associated with the bypass switches is not a critical element in controlling the use of bypass switches. This amendment will allow FCS to credit an automatic SG blowdown isolation interlock being installed during the 2009 Refueling Outage (RFO).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change provides Technical Specification (TS) operability and surveillance testing requirements for automatic steam generator (SG) blowdown isolation on a reactor trip in the event of a loss of main feedwater (LMFW). Automatic isolation will ensure that the existing 15-minute requirement in the Updated Safety Analysis Report (USAR) Chapter 14.10 safety analysis is met without the risk that an unanticipated distraction could prevent manual action from occurring at the proper time. The installation of this feature will eliminate the need for manual isolation of blowdown and thus will eliminate the associated operator challenge.

Automatic isolation of blowdown will reduce the consequences of the LMFW event by providing automatic isolation prior to manual isolation being initiated by the operators. Automatic isolation at the time of reactor trip will reduce the severity of the LMFW event by isolating the SGs earlier in the event, thereby conserving SG inventory.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

No new malfunctions are being introduced by this activity, and based on the current redundancy in the design, there are no malfunctions of the SG blowdown isolation valves that challenge nuclear safety.

The SG blowdown isolation valves will continue to function as currently credited for the LMFW event; thus, this proposed change does not alter their ability to function as containment isolation valves to maintain containment integrity. The manual isolation capability remains unchanged.

A failure analysis has been prepared which shows that the addition of the automatic isolation feature does not introduce a new failure mode or malfunction to the valve circuits. An isolation of SG blowdown, either through the designed circuit following a reactor trip, or during normal operations, does not present a nuclear safety challenge. The capability exists for operators to bypass the isolation signal and restore blowdown as plant conditions warrant.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The addition of an automatic isolation interlock to the SG blowdown isolation valve circuits that close the valves on a reactor trip actually increases the margin of safety by isolating the SG early in the event to maintain SG inventories.

A reactor trip signal is generated in the first seconds of an LMFW due to reduced SG inventories. Because it is desirable to isolate blowdown as soon as possible following the LMFW event, for maximum margin, a reactor trip signal will be used for the SG blowdown isolation interlock. Isolating blowdown earlier in an event provides greater operating margin in terms of maximizing SG inventories. More margin allows operators more time to address operator demands that occur during transient events.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: David A. Repka, Esq., Winston & Strawn, 1700 K Street, NW., Washington, DC 20006–3817.

NRC Branch Chief: Michael T. Markley.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: January 30, 2009.

Description of amendment request: The proposed amendment would delete those portions of the Technical Specifications (TS) superseded by Title 10 of the *Code of Federal Regulations* (10 CFR) Part 26, Subpart I. The licensee is proposing to adopt the approved Technical Specification Task Force (TSTF) change traveler TSTF–511, Revision 0, ''Eliminate Working Hour Restrictions from TS 5.2.2 to Support Compliance with 10 CFR Part 26.''

The NRC staff issued a ''Notice of Availability of Model Safety Evaluation, Model No Significant Hazards Determination, and Model Application for Licensees That Wish To Adopt TSTF–511, Revision 0, ''Eliminate Working Hour Restrictions From TS 5.2.2 To Support Compliance With 10 CFR Part 26,'' in the **Federal Register** on December 30, 2008 (73 FR 79923). The notice included a model safety evaluation, a model no significant hazards consideration (NSHC) determination, and a model license amendment request, using the consolidated line item improvement process. In its application dated January 30, 2009, the licensee affirmed the applicability of the model NSHC determination, which is presented below.

Basis for proposed (NSHC) determination: As required by 10 CFR 50.91(a), an analysis of the issue of NSHC determination is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change removes Technical Specification restrictions on working hours for personnel who perform safety related functions. The Technical Specification restrictions are superseded by the worker fatigue requirements in 10 CFR Part 26. Removal of the Technical Specification requirements will be performed concurrently with the implementation of the 10 CFR Part 26, Subpart I, requirements. The proposed change does not impact the physical configuration or function of plant structures, systems, or components (SSCs) or the manner in which SSCs are operated, maintained, modified, tested, or inspected. Worker fatigue is not an initiator of any accident previously evaluated. Worker fatigue is not an assumption in the consequence mitigation of any accident previously evaluated. Therefore, it is concluded that this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Accident Previously Evaluated

The proposed change removes Technical Specification restrictions on working hours for personnel who perform safety related functions. The Technical Specification restrictions are superseded by the worker fatigue requirements in 10 CFR Part 26. Working hours will continue to be controlled in accordance with NRC requirements. The new rule allows for deviations from controls to mitigate or prevent a condition adverse to safety or as necessary to maintain the security of the facility. This ensures that the new rule will not unnecessarily restrict working hours and thereby create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change does not alter the plant configuration, require new plant equipment to be installed, alter accident analysis assumptions, add any initiators, or effect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in a Margin of Safety

The proposed change removes Technical Specification restrictions on working hours for personnel who perform safety related functions. The Technical Specification restrictions are superseded by the worker fatigue requirements in 10 CFR Part 26. The proposed change does not involve any physical changes to plant or alter the manner in which plant systems are operated, maintained, modified, tested, or inspected. The proposed change does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The safety analysis acceptance criteria are not affected by this change. The proposed change will not result in plant operation in a configuration outside the design basis. The proposed change does not adversely affect systems that respond to safely shutdown the plant and to maintain the plant in a safe shutdown condition. Removal of plant-specific Technical Specification administrative requirements will not reduce a margin of safety because the requirements in 10 CFR Part 26 are adequate to ensure that worker fatigue is managed. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the analysis adopted by the licensee and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves NSHC.

Attorney for licensee: David A. Repka, Esq., Winston & Strawn, 1700 K Street, NW., Washington, DC 20006–3817.

NRC Branch Chief: Michael T. Markley.

R.E. Ginna Nuclear Power Plant, LLC, Docket No. 50–244, R.E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: December 19, 2008.

Description of amendment request: The proposed amendment would modify the Technical Specifications (TSs) to (1) correct an error in TS Table 3.3.2–1, ''Engineered Safety Feature Actuation System Instrumentation,'' Function 1.a, to reflect the correct CONDITIONS for applicable Modes 1, 2, 3, and 4, (2) revise TS Limiting Condition for Operation (LCO) 3.3.4 degraded voltage relay and loss of voltage relay Limiting Safety System Settings values to reflect the revised analysis, and (3) revise the load requirement of Surveillance Requirement 3.8.1.3 to reflect values supported by the diesel generator accident loading analyses.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes to LCO 3.3.2 correct an administrative error which directed inadequate action in the event that a channel of instrumentation is lost for manual safety injection initiation. The amendment places the plant in a

more conservative condition, Mode 5, if the other Required Actions cannot be executed within their periodicity.

The proposed changes to LCO 3.3.4 provide setpoint changes based on a revised calculation, which generated new setpoints for the loss of voltage relays and degraded voltage relays. The new setpoints ensure the protective relays will function when required, will ensure protection from thermal damage to loads on the 480V busses, and will not cause unintended diesel generator starts even in worst case scenarios, with power provided from offsite.

The proposed changes to LCO 3.8.1 involve an increase in the minimum load band value for diesel generator surveillance SR 3.8.1.3. This change ensures that the diesel generators are capable of synchronizing with the offsite electrical system and accepting loads greater than or equal [to] the equivalent of the maximum expected accident loads. The new load band value is more conservative than the existing value and provides a more thorough test to ensure equipment emergency response capability.

Therefore, the probability or consequences of an accident previously evaluated will not be significantly increased.

2. Do the proposed amendments create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes involve correcting an administrative error and revising previously established values associated with the diesel generators to increase conservatism. None of these proposed changes involve a physical alteration of the plant (*i.e.,* no new or different types of equipment will be installed) or a change in methods governing normal plant operation. The proposed changes preserve the safety analysis assumptions related to accident mitigation. No initiators or accident precursors are created by this change. Therefore, the possibility of a new or different kind of accident not previously evaluated is not created.

3. Do the proposed amendments involve a significant reduction in a margin of safety?

Response: No.

The level of safety of facility operation is unaffected by any of the proposed changes. The requested administrative change is conservative compared to the existing requirement. The response of the diesel generators to accident transients reported in the Updated Final Safety Analysis Report (UFSAR) is unaffected by these changes. The proposed changes preserve the safety analysis assumptions related to accident mitigation. Therefore, these changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Carey Fleming, Sr. Counsel—Nuclear Generation, Constellation Group, LLC, 750 East Pratt Street, 17 Floor, Baltimore, MD 21202.

NRC Branch Chief: Mark G. Kowal.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr.resource@nrc.gov*.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: July 7, 2008, as supplemented by letters dated December 17, 2008, and March 9, 2009.

Brief description of amendments: The amendments revise Surveillance Requirement (SR) 3.6.1.6.1 to add a new requirement to verify that each vacuum breaker is closed within 6 hours following an operation that causes any of the vacuum breakers to open and, also, revise SR 3.6.1.6.2 by removing the requirement to perform functional testing of each vacuum breaker within 12 hours following an operation that causes any of the vacuum breakers to open.

Date of issuance: March 11, 2009.

Effective date: As of the date of issuance and shall be implemented within 90 days.

Amendment Nos.: 251 and 279.

Facility Operating License Nos. DPR–71 and DPR–62: Amendments change the Technical Specifications.

Date of initial notice in ***Federal Register:*** September 23, 2008 (73 FR 54864). The supplemental letter provided clarifying information that was within the scope of the initial notice and did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 11, 2009.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Units 1 and 2, Will County, Illinois

Exelon Generation Company, LLC, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Exelon Generation Company, LLC, Docket No. 50–461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Exelon Generation Company, LLC, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Exelon Generation Company, LLC, Docket No. 50–352 and No. 50–353, Limerick Generating Station, Unit 1 and 2, Montgomery County, Pennsylvania

Exelon Generation Company, LLC, Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Exelon Generation Company, LLC, and PSEG Nuclear LLC, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units 2 and 3, York and Lancaster Counties, Pennsylvania

Exelon Generation Company, LLC, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Exelon Generation Company, LLC, Docket No. 50–289, Three Mile Island Nuclear Station, Unit 1 (TMI–1), Dauphin County, Pennsylvania

Date of application for amendments: April 21, 2008, as supplemented on March 11, 2009.

Brief description of amendments: The proposed amendment removes references to and limits provided by Nuclear Regulatory Commission Generic Letter (GL) 82–12, ''Nuclear Power Plant Staff Working Hours,'' from the subject plants' technical specifications (TS). The references and limitations have been superseded by the requirements of Title 10 of the *Code of Federal Regulations*, Part 26 (10 CFR 26), Subpart I, ''Managing Fatigue.''

Date of issuance: March 23, 2009.

Effective date: As of the date of issuance and shall be implemented by October 1, 2009.

Amendment Nos.: 157, 157, 162, 162, 185, 231, 224, 192, 179, 198, 159, 274, 271, 275, 243, 238, 270.

Facility Operating License Nos. NPF–72, NPF–77, NPF–37, NPF–66, NPF–62, DPR–19, DPR–25, NPF–11, NPF–18, NPF–39, NPF–85, DPR–16, DPR–44, DPR–56, DPR–29, DPR–30, DPR–50: The amendments revised the Technical Specifications/Licenses.

Date of initial notice in ***Federal Register:*** June 3, 2008 (73 FR 31721). The March 11, 2009, supplement contained clarifying information and did not change the NRC staff's initial proposed finding of no significant hazards consideration.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 23, 2009.

No significant hazards consideration comments received: No.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: March 24, 2008, as supplemented by letters dated September 11 and 19, 2008, November 6, 2008, and February 26, 2009.

Brief description of amendment: The amendment revised Technical Specification (TS) Section 3.7.3, ''Reactor Equipment Cooling (REC) System,'' to allow credit for the ability to align the service water system to the REC system.

Date of issuance: March 20, 2009.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment No.: 232.

Facility Operating License No. DPR–46: Amendment revised the Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register:*** April 22, 2008 (73 FR 21660). The supplemental letters dated September 11 and 19, 2008, November 6, 2008, and February 26, 2009, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 20, 2009.

No significant hazards consideration comments received: No.

Nine Mile Point Nuclear Station, LLC, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit No. 1 (NMP1), Oswego County, New York

Date of application for amendment: August 15, 2008, as supplemented on December 4, 2008.

Brief description of amendments: The amendment revises NMP1 Technical Specification (TS) 6.5.7, ''10 CFR 50 [Part 50 of Title 10 of the *Code of Federal Regulations* Appendix J Testing Program Plan,'' to allow a one-time extension of the Integrated Leak Rate Test (ILRT) interval for no more than 5 years. The amendment allows the next ILRT for NMP1 to be performed within 15 years from the last ILRT as opposed to the current 10-year interval.

Date of issuance: March 11, 2009.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 202.

Renewed Facility Operating License No. DPR–063: The amendment revises the License and TSs.

Date of initial notice in ***Federal Register:*** October 21, 2008 (73 FR 62566). The supplement dated December 4, 2008, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the Nuclear Regulatory Commission staff's initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 11, 2009.

No significant hazards consideration comments received: No.

Northern States Power Company—Minnesota, LLC, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: April 3, 2008, as supplemented on February 23, 2009.

Brief description of amendment: The amendment adopted the proposed requirements regarding control room envelope habitability set forth in Technical Specifications Task Force (TSTF) change traveler TSTF–448, Revision 3. Specifically, the amendment revised the requirements in TS Section 3.7.4, ''Control Room Emergency Filtration (CREF) System,'' adds a new TS Section 5.5.13, ''Control Room Envelope Habitability Program,'' and added a license condition to the operating license to implement the TS changes.

Date of issuance: March 17, 2009.

Effective date: As of the date of issuance and shall be implemented by November 1, 2009.

Amendment No.: 160.

Facility Operating License No. DPR–22. Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** May 6, 2008 (73 FR 25043). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 17, 2009.

No significant hazards consideration comments received: No.

PPL Susquehanna, LLC, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: July 31, 2008.

Brief description of amendments: The amendments changed the PPL Susquehanna, LLC (PPL) Units 1 and 2 Technical Specification 3.6.1.3 ''Primary Containment Isolation Valves (PCIVs).'' It revised the Secondary Containment Bypass Leakage limit in Surveillance Requirement 3.6.1.3.11 from ''less than or equal to 9 standard cubic foot/feet per hour (scfh)'' to ''less than or equal to 15 scfh when pressurized to greater than or equal to P_a.''

Date of issuance: March 18, 2009.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 251 for Unit 1 and 231 for Unit 2.

Facility Operating License Nos. NPF–14 and NPF–22: The amendments revised the License and Technical Specifications.

Date of initial notice in ***Federal Register:*** November 18, 2008 (73 FR 68455). The Commission's related evaluation of the amendments is contained in a Safety Evaluation (SE) dated March 18, 2009.

No significant hazards consideration comments received: No. However, comments have been received from the Commonwealth of Pennsylvania and have been addressed in the SE.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station, Units 1 and 2, Louisa County, Virginia

Date of application for amendment: March 19, 2008, as supplemented October 7, 2008, November 17, 2008, and December 10, 2008.

Brief description of amendment: The amendments revise the technical specifications (TSs) to (1) delete TS 3.7.13, ''MCR/ESGR Bottled Air System,'' (2) create TS 3.3.6, ''Main Control Room/Emergency Switchgear Room (MCR/ESGR) Envelope Isolation Actuation Instrumentation,'' to establish the operability requirements for the MCR/ESGR envelope isolation function, and (3) incorporate TS 3.7.14, ''MCR/ESGR Emergency Ventilation During Movement of Recently Irradiated Fuel Assemblies,'' into TS 3.7.10, ''MCR/ESGR Emergency Ventilation System.'' The changes revise the TSs to be consistent with the assumptions of the current dose analysis of record, performed in accordance with Title 10 of the *Code of Federal Regulations*, Section 50.67, ''Accident Source Term,'' and the results of the nonpressurized MCR/ESGR envelope tracer gas testing.

Date of issuance: March 25, 2009.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment Nos.: 255/236.

Renewed Facility Operating License Nos. NPF–4 and NPF–7: Amendments change the licenses and the technical specifications.

Date of initial notice in ***Federal Register:*** April 22, 2008 (73 FR 21661). The supplements dated October 7, 2008, November 17, 2008, and December 10, 2008, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 25, 2009.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 30th of March, 2009.

For the Nuclear Regulatory Commission.

Joseph G. Giitter,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E9–7494 Filed 4–6–09; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–315 and 50–316; NRC–2009–0153]

Indiana Michigan Power Company; Donald C. Cook Nuclear Plant, Units 1 and 2; Exemption

1.0 Background

The Indiana Michigan Power Company (the licensee) is the holder of Facility Operating License Nos. DPR–58 and DPR–74, which authorizes operation of the Donald C. Cook Nuclear Plant, Units 1 and 2. The licenses provide, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of two pressurized-water reactors located in Berrien County in Michigan.

2.0 Request/Action

Title 10 of the Code of Federal Regulations, Part 50, Section 36a(a)(2) (10 CFR 50.36a(a)(2)) requires each licensee to submit a report to the Commission annually that specifies the quantity of each of the principal radionuclides released to unrestricted areas in liquid and in gaseous effluents during the previous 12 months, including any other information as may be required by the Commission to estimate maximum potential annual radiation doses to the public resulting from effluent releases. The report must be submitted as specified in Section 50.4, and the time between report submittals must be no longer than 12 months.

The licensee has proposed an amendment to Technical Specification 5.6.3 to change the submittal date for the report from ''within 90 days of January 1 of each year'' to ''prior to May 1 of each year.'' Therefore, the licensee has requested a one-time exemption from the 12-month reporting criteria specified in 10 CFR 50.36a(a)(2) for its submittal of the 2008 Radioactive Effluent Release Report.

In summary, the exemption does not affect the information required to be submitted or the time period the report covers, only the date the report is submitted.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. These circumstances include the special circumstances that would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation.

Authorized by Law

This exemption would allow the licensee to submit the 2008 Radioactive Effluent Release Report prior to May 1, 2009, which would exceed the report submittal requirement of no longer than 12 months specified in 10 CFR 50.36a(a)(2). As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR Part 50. The NRC staff has determined that granting of the licensee's proposed exemption will not

result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, the exemption is authorized by law.

No Undue Risk to Public Health and Safety

The underlying purpose of the reporting requirements specified in 10 CFR 50.36a(a)(2) is to report to the Commission annually the quantity of each of the principal radionuclides released to unrestricted areas in liquid and in gaseous effluents during the previous 12 months, including any other information as may be required by the Commission to estimate maximum potential annual radiation doses to the public resulting from effluent releases. This exemption does not affect the information required to be submitted or the time period the report covers, only the date the report is submitted. Based on the above, no new accident precursors are created by extending the submittal date for the 2008 Radioactive Effluent Release Report to prior to May 1, 2009. Thus, the probability of postulated accidents is not increased. Also, based on the above, the consequences of postulated accidents are not increased. Therefore, there is no undue risk to public health and safety.

Consistent With Common Defense and Security

The proposed exemption would allow the licensee to submit the 2008 Radioactive Effluent Release Report prior to May 1, 2009, which would exceed the report submittal requirement of no longer than 12 months specified in 10 CFR 50.36a(a)(2). This change has no relation to security issues. Therefore, the common defense and security is not impacted by this exemption.

Special Circumstances

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(v), are present whenever application of the regulation would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation. The underlying purpose of the reporting requirement specified in 10 CFR 50.36a(a)(2) is to require each licensee to submit a report to the Commission annually that specifies the quantity of each of the principal radionuclides released to unrestricted areas in liquid and in gaseous effluents, including any other information as may be required by the Commission to estimate maximum potential annual radiation doses to the public resulting from effluent releases. The proposed amendment does not affect the information required to be submitted or the time period the report covers, only the date the report is to be submitted. The requested exemption provides temporary relief from the regulation in that it affords a one-time extension for submitting the annual report. The proposed amendment is an appropriate means to ensure that future reports are submitted on an annual basis as required by 10 CFR 50.36a(a)(2). Therefore, since the underlying purpose of 10 CFR 50.36a(a)(2) is achieved, the special circumstances of 10 CFR 50.12(a)(2)(v) for the granting of an exemption from 10 CFR 50.36a(a)(2) exists.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants Indian Michigan Power Company a one-time exemption from the requirements of 10 CFR 50.36a(a)(2), for Donald C. Cook Nuclear Plant, Units 1 and 2.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (74 FR 9315)

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 30th day of March, 2009.

For the Nuclear Regulatory Commission.

Joseph G. Giitter,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50–289; NRC–2009–0154]

Exelon Generation Company, LLC, Three Mile Island Nuclear Station, Unit No. 1; Exemption

1.0 Background

The Exelon Generation Company (Exelon, the licensee, formerly AmerGen Energy Company, LLC) is the holder of Facility Operating License No. DPR–50 which authorizes operation of the Three Mile Island Nuclear Station, Unit 1 (TMI–1). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of a pressurized water reactor (PWR) located in Dauphin County, Pennsylvania.

2.0 Request/Action

Title 10 of *the Code of Federal Regulations* (10 CFR), part 50, Section 50.48, requires that nuclear power plants that were licensed before January 1, 1979, must satisfy the requirements of 10 CFR part 50, Appendix R, Section III.G, ''Fire protection of safe shutdown capability.'' TMI–1 was licensed to operate prior to January 1, 1979. As such, the licensee's Fire Protection Program (FPP) must satisfy the established fire protection features of 10 CFR Part 50, Appendix R, Section III.G. NRC Regulatory Information Summary (RIS) 2006–10, ''Regulatory Expectations with Appendix R Paragraph III.G.2, Operator Manual Actions,'' noted that NRC inspections identified that some licensees had relied upon operator manual actions, instead of the options specified in 10 CFR part 50, Appendix R, Section III.G.2 (III.G.2) as a permanent solution to resolve issues related to Thermo-Lag 330–1 fire barriers.

In a letter dated February 4, 2008 (Agencywide Documents Access and Management System (ADAMS) Accession Number ML080350369), supplemented by letter dated January 28, 2009 (ADAMS Accession Number ML090280577), the licensee identified one operator manual action that was previously included in correspondence with the NRC and found acceptable in a fire protection-related Safety Evaluation (SE) dated September 7, 1988 (ADAMS Accession Number ML082060262). However, RIS 2006–10 identifies that an exemption under 10 CFR 50.12 is necessary for the use of operator manual actions in lieu of the requirements of III.G.2 even if the NRC previously issued an SE that found the manual actions acceptable.

The licensee also identified a second operator manual action that was previously permitted for use in a fire area covered by 10 CFR part 50, Appendix R, Section III.G.3 (III.G.3). As such, an exemption was not required because the action was found acceptable as part of a safety evaluation for alternate shutdown. However, since the fire area of origin requiring this manual action was reclassified as a III.G.2 area, the manual action requires approval for use in a III.G.2 area. Since III.G.2 is a separate part of the rule and this action is not considered previously approved for III.G.2, the NRC has preformed a new

review of this action in accordance with the NRC's current review standard, NUREG–1852, ''Demonstrating the Feasibility and Reliability of Operator Manual Actions in Response to Fire.'' Since both operator manual actions require an exemption from III.G.2, the staff has reviewed the request and determined that both operator manual actions are acceptable. This exemption provides the formal vehicle for NRC approval for the use of the two specified operator manual actions in lieu of the requirements specified in III.G.2 for TMI–1.

In summary, by letter dated February 4, 2008, supplemented by letter dated January 28, 2009 (ADAMS Accession Numbers ML080350369 and ML090280577, respectively), Exelon submitted a request for exemption from 10 CFR part 50, Appendix R, Section III.G, ''Fire Protection of Safe Shutdown Capability,'' for the use of one operator manual action in lieu of the requirements specified in III.G.2 for one previously approved operator manual action and one new review of an operator manual action that was previously approved as part of a III.G.3 review.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR PART 50 when: (1) The exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. One of these special circumstances, described in 10 CFR 50.12(a)(2)(ii), is that the application of the regulation in the particular circumstances would not serve the underlying purpose of the rule, or is not necessary to achieve the underlying purpose of the rule.

The underlying purpose of 10 CFR part 50, Appendix R, Section III.G.2 is to ensure that one of the redundant trains necessary to achieve and maintain hot shutdown conditions remains free of fire damage in the event of a fire. Section III.G.2 provides the following means to ensure that a redundant train of safe shutdown cables and equipment is free of fire damage, where redundant trains are located in the same fire area outside of primary containment:

a. Separation of cables and equipment by a fire barrier having a 3-hour rating;

b. Separation of cables and equipment by a horizontal distance of more than 20 feet with no intervening combustibles or fire hazards and with fire detectors and an automatic fire suppression system installed in the fire area; or

c. Enclosure of cables and equipment of one redundant train in a fire barrier having a 1-hour rating and with fire detectors and an automatic fire suppression system installed in the fire area.

Exelon indicated that the operator manual actions listed in their February 4, 2008, exemption request are those that were previously included in correspondence with the NRC and were found acceptable in a Fire Protection SE dated September 7, 1988. The first operator manual action included in this exemption is the tripping of all four reactor coolant pumps (RCPs) locally at the 1A and 1B switchgear for a fire in Fire Area CB–FA–1, which is located in the Control Building Health Physics Lab (Lab). The second operator manual action included in this exemption is the transferring of Nuclear Service River Water Pump 1B (NR–P–1B) to its alternate power supply for a fire in Fire Area CB–FA–2b, which is located in the Control Building 1S Switchgear Room (Switchgear Room). This action was described in the January 28, 2009, letter as not previously approved as part of III.G.2. Section 2.1, titled ''Fire Hazards Analysis Report Revision 9'', of the September 7, 1988, SE states,

> By letter dated October 27, 1987, GPU [General Public Utilities] Nuclear, the licensee, submitted Revision 9 to the Fire Hazards Analysis Report (FHAR) for Three Mile Island Nuclear Station, Unit 1. This revision includes a number of modifications which have resulted from an extensive design verification effort by the licensee. As stated by the licensee, Revision 9 represents the ''as-built condition of TMI–1''. Also, Revision 9 includes a number of modifications involving the addition of references to GPUN and NRC correspondence concerning the justification and subsequent acceptance of exemptions to 10 CFR Part 50 Appendix R and deviations from Appendix A to [Branch Technical Position] APCSB 9.5–1. In addition, the FHAR has been modified to specify where certain fire barriers may not be completely rated or contain some non-rated feature but have been analyzed to provide adequate protection. This type of analysis is allowed by Generic Letter 86–10 and the non-rated features included in Revision 9 have generally been evaluated in previous NRC Safety Evaluation Reports.
>
> The FHAR has been reviewed by Science Applications International Corporation (SAIC) under contract to the NRC, and has been found to be in compliance with NRC guidelines. The details of the review are discussed in Enclosure 2, which is the Technical Evaluation Report (TER) prepared by SAIC. The staff concurs with the TER findings and concludes that the changes to the fire protection program identified by the licensee in Revision 9 are acceptable.

The two operator manual actions in question are listed in attachments 3–0 and 3–3Q of the FHAR where a brief description of the action to be performed and its location is also included. In the January 28, 2009, letter, responding to a request for additional information from the NRC staff, Exelon included a detailed discussion and justification of the two manual actions that describe how defense-in-depth is maintained during the scenarios where these manual actions would be necessary. The licensee outlined the approach that was taken to evaluate and assess the effectiveness of the operator manual actions and provided a justification for why the operator manual actions are appropriate for maintaining equivalency and consistency with the intent of Section III.G.2 of Appendix R.

The NRC staff reviewed the licensee's evaluation in support of the subject exemption request for the use of operator manual actions in lieu of the requirements specified in Section III.G.2 of Appendix R, and concluded that given the existing fire protection features in the affected fire zones in conjunction with the use of the two operator manual actions, in specific instances, Exelon continues to demonstrate equivalence to the underlying purpose of 10 CFR part 50, Appendix R, Section III.G.2 for TMI–1. The following technical evaluation provides the basis for this conclusion.

3.1 Operator Manual Action To Trip RCPs

3.1.1 Fire Prevention

The Lab area has limited or low combustible fuel loading (equivalent fire severity of less than 45 minutes). The combustible fuel loads consist primarily of stored and transient materials, cable insulation, and Thermo-Lag. Thermo-Lag is a fire barrier material used for the protection of cable raceways that is considered combustible. The primary sources of ignition in the areas are limited to cabling and electrical equipment. The licensee has indicated that in most cases, the cable insulation is qualified to the Institute of Electrical and Electronics Engineering, Inc. (IEEE) 383 flame test, thereby the growth and spread of cable insulation fires would be slow. The redundant cables in this area that are required for safe shutdown are located greater than 25 feet apart, thus providing physical separation. Additionally, the Lab area is of a large volume (90,000 cubic feet) to potentially disperse and stratify heat and smoke within the space to prevent wide area

damage due to a damaging hot gas layer forming in the area.

The NRC staff finds that the limited fuel load combined with the number of ignition sources, and spatial characteristics in the Lab area, results in a low likelihood of a fire occurring and spreading within the fire area.

3.1.2 Detection, Control and Suppression

The NRC staff evaluated the fire detection, control and suppression systems in the Lab area. The Lab area has an automatic ionization smoke detection system installed that sends an alarm to the Control Room upon activation of the fire/smoke detections systems.

The area is enclosed by 3-hour rated walls, floors and ceilings to prevent fire from spreading to or from the area and the structural frame is also protected with 3-hour fireproofing material. In addition, all doors, penetrations and ventilation dampers through the fire area boundaries are provided with 3-hour rated fire protection assemblies.

The Lab area also has a wet-pipe fire sprinkler system installed below the suspended ceiling in the area. In this fire area, rated Thermo-Lag fire barriers, with ratings ranging from 39 to 50 minutes, are also provided for circuits of redundant safe shutdown equipment.[1] The active fire suppression systems listed above are supplemented by handheld fire extinguishers and hose lines staged at locations directly outside the fire area. Additionally, fire brigade response time has been estimated to be within 15 minutes.

The NRC staff finds that the fire barriers, fire detection, control and suppression systems are adequate to mitigate and contain the fire hazards in this area.

3.1.3 Feasibility and Preservation of Safe Shutdown Capability

The NRC staff has evaluated the feasibility review provided by the licensee in the January 28, 2009, letter responding to a request for additional information from the NRC staff. The feasibility review documents that procedures are in place, in the form of abnormal operating procedures (AOPs), to ensure that clear and accessible instructions on how to perform the manual action are available to the operators. The instructions outline the number of fully trained, dedicated operators that are required and the procedures they are to follow to perform the action including any tools or equipment necessary to complete the action. Several potential environmental concerns were also evaluated, such as radiation levels, temperature/humidity conditions, ventilation configuration and fire effects that the operators may encounter during certain emergency scenarios, and were determined not to have a material effect on the performance of the manual action. The licensee's feasibility review shows that the operator manual action is feasible because the operators performing the manual actions would not be exposed to adverse or untenable conditions during the operator manual action procedure or during the time needed to perform the procedure, primarily because the manual actions are located in fire areas that are completely separated from the originating fire area. The NRC staff has evaluated the licensee's feasibility review and determined that the operator manual actions can be reasonably completed in time to support the needed mitigative functions. Training, equipment, and procedures are maintained to support the specified actions.

Given the procedures and conditions described above, the NRC staff finds that this operator manual action is feasible and that the operator will be provided with adequate access and egress to the area such that environmental conditions will not preclude completion of the action or result in harm to the operator.

3.1.4 Time To Ensure Reliability

The NRC staff reviewed the time necessary to complete the manual action versus the time before the action becomes critical to safely shutting down the unit as presented in the feasibility analyses. This manual action must be completed within 10 minutes. The action is identified in the AOPs as OP–TM–AOP–001–C01 and requires an operator to travel from the control room to a location in the turbine building, where the 1A and 1B 6900V feeder breakers are located, to trip the reactor coolant pumps (RCPs). The combined time to complete the travel and specified action requires a total of 8 minutes, leaving a 2 minute margin of safety. While a 2 minute margin of safety is considered small, this action is only needed when both of the cables located in the fire area are affected by fire. Based on the protection and spatial separation between the cables, it is highly unlikely that both DC control power cables would be lost before the control room operator could trip the RCPs. Based on information provided by the licensee, this manual operator action will commence immediately upon detection/confirmation of a fire in CB–FA–1 (Lab) and/or failure to trip the RCPs from the control room. The licensee has indicated that the manual operator action was verified via walkdowns with different operators to verify the reliability of the manual action.

In addition, the fire area where the redundant equipment trains reside is located in a separate building from the fire area where the manual action occurs, with the exception of the portion of travel in the control tower stairwell (to trip the RCPs), which is separated from the control building by 3-hour assemblies. This helps to ensure that operators do not encounter untenable or fire-affected conditions during the operator manual action procedure.

The NRC staff finds that the margin available to perform the action is small. Based on the low likelihood of the damage occurring to both DC control power cables, as well as the procedural controls and walkdowns described, the NRC staff concludes that the small margin is acceptable due to the low likelihood of a fire that impacts both DC control power cables.

3.2 Operator Manual Action To Transfer Nuclear Service River Water to Alternate Power

3.2.1 Fire Prevention

The Switchgear Room has limited or low combustible fuel loading (equivalent fire severity of less than 45 minutes). The combustible fuel loads consist primarily of minor transient materials, cable insulation, Thermo-Lag and electrical equipment. The primary sources of ignition in the area are limited to cabling and electrical equipment. The licensee has indicated that in most cases, the cable insulation is qualified to the IEEE 383 flame test, thereby the growth and spread of cable insulation fires would be slow.

The NRC staff finds that the limited fuel load, combined with the number of ignition sources, results in a low likelihood of a fire occurring and spreading within the fire.

3.2.2 Detection, Control and Suppression

The NRC staff evaluated the fire detection, control and suppression systems in the Switchgear Room. There is an incipient fire detection system,[2] as

[1] NRC letter dated April 20, 1999, (ADAMS Legacy Library Accession Number 9905040102) approved the exemption request on these barriers from the requirements of Section III.G.2.c for 1-hour fire barriers where circuits of redundant safe shutdown equipment in the same fire area are enclosed in a 1-hour fire barrier.

[2] An incipient fire detection system is a fire detection system designed to provide more rapid

Continued

well as an HVAC duct smoke detection system installed in the space that sends an alarm to the Control Room upon activation of the fire/smoke detections systems.

The Switchgear Room is enclosed by 3-hour rated walls, floors and ceilings to prevent fire from spreading to or from the area and the structural frame is also protected with 3-hour fire proofing material. In addition, all doors, penetrations and ventilation dampers through the fire area boundaries are provided with 3-hour rated fire protection assemblies.

The Switchgear Room does not have a fire suppression system installed but does have 1-hour rated fire barriers provided for circuits of redundant safe shutdown equipment. A 1-hour rated fire barrier is not provided for the transfer of nuclear service water to alternate power cables. Manual suppression capability can be provided by operators and fire brigade by using the handheld fire extinguishers and hose lines staged at locations directly outside of the fire area. Additionally, fire brigade response time has been estimated to be within 15 minutes for this fire area. The NRC approved an exemption on July 11, 1997, (ADAMS Accession No. ML003765666) exempting this area from the requirement to have an automatic suppression system.

The NRC staff finds that the fire barriers, fire detection system and the manual suppression capability, in conjunction with the passive means of protection, is adequate to mitigate and contain the fire hazards in this area.

3.2.3 Feasibility and Preservation of Safe Shutdown Capability

The NRC staff evaluated the feasibility review provided by the licensee in the January 28, 2009, letter, responding to a request for additional information from the NRC staff. The feasibility review documents that procedures are in place, in the form of AOPs, to ensure that clear and accessible instructions on how to perform the manual action are available to the operators. The instructions outline the number of fully trained, dedicated operators that are required and the procedures they are to follow to perform the action including any tools or equipment necessary to complete the action. Several potential environmental concerns were also evaluated, such as radiation levels, temperature/humidity conditions, ventilation configuration and fire effects that the operators may encounter during certain emergency scenarios, and determined not to have a material effect on the performance of the manual action. The NRC staff has evaluated the licensee's feasibility review and determined that the operator manual actions can be reasonably completed in time to support the needed mitigative functions. Training, equipment, and procedures are maintained to support the specified actions.

In addition, the fire area where the redundant equipment trains reside is located in a separate building from the fire area where the manual actions occur. This helps to ensure that operators do not encounter untenable or fire-affected conditions during the operator manual action procedure.

Given the procedures and conditions described above, the NRC staff finds that this operator manual action is feasible and that the operator will be provided with adequate access and egress to the area such that environmental conditions will not preclude completion of the action or result in harm to the operator.

3.2.4 Time To Ensure Reliability

The NRC staff also reviewed the time necessary to complete the manual action versus the time before the action becomes critical to safely shutting down the unit as presented in the feasibility analyses. The action must be completed within 4 hours. This action is identified in the AOPs as OP–TM–AOP–001–C2B, which states that AOP OP–TN–541–443 (''Swap NR–P–1B to Alternate Power Supply''), should be performed and instructs an operator to travel from the control room to the intake screen and pump house (ISPH), which is outside the plant protected area. The operator must first pass through a security access gate before traveling to Fire Areas ISPH–FZ–1 and ISPH–FZ–2 where they will energize nuclear service river water pump, NR–P–1B, at the 1R 480V switchgear to provide nuclear river (NR) water flow and support letdown for a fire in Fire Area CB–FA–2b (Switchgear Room). In order to swap the NR pump power supply, the operator manual action entails racking out the NR–P–1B breaker on the 1T 480V bus and racking in the NR–P–1B breaker on the 1R 480V bus. The combined time to complete the travel, including the time required for security to open the access gate, and the specified actions is less than 30 minutes. Additionally, this action is only necessary if the pressurizer heaters are unavailable and is of low complexity with a time margin of 3½ hours.

The NRC staff finds that there is a sufficient amount of time available to complete this proposed operator manual action and that adequate conditions exist for it to be performed efficiently and reliably.

3.3 Evaluation

As stated in 10 CFR part 50, Appendix R, Section II:

The fire protection program shall extend the concept of defense-in-depth to fire protection with the following objectives:

1. To prevent fires from starting,
2. To detect rapidly, control, and extinguish promptly those fires that do occur, and
3. To provide protection for structures, systems, and components important to safety so that a fire that is not promptly extinguished by the fire suppression activities will not prevent the safe shutdown of the plant.

The NRC staff has evaluated the elements of defense-in-depth used for fire protection at TMI–1, applicable to the fire zones under review. Based upon consideration of the limited fire ignition sources and fire hazards in the affected areas, and the existing fire protection measures at TMI–1, the NRC staff concludes that objective one of defense-in-depth is adequately met.

Based on the evaluation of fire detection and suppression systems provided in the affected fire zones, the NRC staff determined that any postulated fire is expected to be promptly detected by the available automatic fire detection systems in the associated fire areas. The available fire detection and suppression equipment in these fire areas ensure that a postulated fire will not be left unchallenged. In addition, all fire areas are separated from adjacent fire areas by fire-rated barriers and penetrations to provide a level of compartmentalization between the fire areas and buildings. This compartmentalization helps to ensure that fires will not spread to adjacent fire areas and that any fire damage will be limited to the fire area of origin. In addition, when fires are contained in the fire area of origin, the licensee has demonstrated that the manual actions are feasible and reliable. Based on this information, the NRC staff concludes that objectives 2 and 3 of defense-in-depth are adequately met.

Therefore, the NRC staff concludes that the requested exemption to use operator manual actions in combination with the other installed fire protection features in lieu of the requirements of 10 CFR part 50, Appendix R, Section III.G.2 is consistent with the underlying purpose of the rule and the defense-in-depth concepts necessary at nuclear power plants and will maintain an equivalent level of protection for post-fire safe-shutdown capability at TMI–1.

detection than conventional smoke detection systems.

3.4 Authorized by Law

This exemption would allow TMI–1 the use of operator manual actions in lieu of meeting the requirements specified in 10 CFR part 50, Appendix R, Section III.G.2. As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR part 50. The NRC staff has determined that granting of the licensee's proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, the exemption is authorized by law.

3.5 No Undue Risk to Public Health and Safety

The underlying purpose of 10 CFR part 50, Appendix R, Section III.G.2 is to ensure that one of the redundant trains necessary to achieve and maintain hot shutdown conditions remains free of fire damage in the event of a fire. Based on the existing fire barriers, fire detectors, automatic and manual fire suppression equipment, and the absence of significant combustible loads and ignition sources in the fire areas associated with this exemption, the NRC staff has concluded that granting of this involves no undue risk to public health and safety.

The NRC staff has determined that this exemption also does not increase the probability or consequences of previously evaluated accidents. This determination is based on the NRC staff finding that the operator manual actions are not the sole form of protection relied upon due to the other fire protection features and procedures in place and the manual actions are considered feasible and reliable to ensure safe shutdown capability following a fire. The combination of the operator manual actions in conjunction with all of the measures and systems discussed above, results in an adequate level of protection. No new accident initiators are created by allowing the use of operator manual actions in the fire areas identified in this exemption and the probability of postulated accidents is not increased. Similarly, the consequences of postulated accidents are not increased. Therefore, there is no undue risk to public health and safety.

3.6 Consistent With Common Defense and Security

This exemption would allow TMI–1 to credit the use of specific operator manual actions and installed fire protection features in lieu of meeting the requirements specified in 10 CFR part 50, Appendix R, Section III.G.2. This change, to the operation of the plant, has no relation to security issues nor does it diminish the level of safety from what was intended by the requirements contained in Section III.G.2. Therefore, the common defense and security is not impacted by this exemption.

3.7 Special Circumstances

One of the special circumstances described in 10 CFR 50.12(a)(2)(ii) is that the application of the regulation is not necessary to achieve the underlying purpose of the rule. The underlying purpose of 10 CFR part 50, Appendix R, Section III.G.2 is to ensure that one of the redundant trains necessary to achieve and maintain hot shutdown conditions remains free of fire damage in the event of a fire. For the fire areas specified in this exemption, the NRC staff finds that the operator manual actions are feasible, can be reliably performed and that the fire protection features installed in the areas are effective at preventing and suppressing fires. Therefore, the conditions described herein will ensure that a redundant train necessary to achieve and maintain safe shutdown of the plant will remain free of fire damage in the event of a fire in these fire areas. The staff concludes that combination of the operator manual actions, in conjunction with all of the measures and systems discussed above, results in an equivalent level of protection to that intended by III.G.2. Since the underlying purpose of 10 CFR part 50, Appendix R, Section III.G is achieved, the special circumstances required by 10 CFR 50.12(a)(2)(ii) for the granting of an exemption from 10 CFR part 50, Appendix R, Section III.G.2 exist.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present such that application of the regulation in these particular circumstances is not necessary to achieve the underlying purpose of the rule. Therefore, the Commission hereby grants Exelon an exemption from the requirements of Section III.G.2 of Appendix R of 10 CFR part 50, to TMI–1 for the two operator manual actions discussed above.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (74 FR 9437).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 30th day of March 2009.

For the Nuclear Regulatory Commission.

Joseph G. Giitter,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E9–7807 Filed 4–6–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Federal Register Notice

DATES: Weeks of April 6, 13, 20, 27, May 4, 11, 2009.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and closed.

Week of April 6, 2009

There are no meetings scheduled for the week of April 6, 2009.

Week of April 13, 2009—Tentative

Wednesday, April 15, 2009

9:30 a.m. Briefing on NRC Corporate Support (Public Meeting) (Contact: Karen Olive, 301–415–2276).

This meeting will be webcast live at the Web address— *http://www.nrc.gov.*

Thursday, April 16, 2009

1:30 p.m. Briefing on Human Capital and EEO (Public Meeting) (Contact: Kristin Davis, 301–492–2266).

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Friday, April 17, 2009

9:30 a.m. Briefing on Low Level Radioactive Waste—Part 1 (Public Meeting) (Contact: Patricia Swain, 301–415–5405).

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Friday, April 17, 2009

1:30 p.m. Briefing on Low Level Radioactive Waste—Part 2 (Public Meeting) (Contact: Patricia Swain, 301–415–5405).

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Week of April 20, 2009—Tentative

Thursday, April 23, 2009

2 p.m. Briefing on Radioactive Source Security (Public Meeting)

(Contact: Kim Lukes, 301–415–6701).

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Week of April 27, 2009—Tentative

There are no meetings scheduled for the week of April 27, 2009.

Week of May 4, 2009—Tentative

There are no meetings scheduled for the week of May 4, 2009.

Week of May 11, 2009—Tentative

Thursday, May 14, 2009

9 a.m. Briefing on the Results of the Agency Action Review Meeting (Public Meeting)

(Contact: Shaun Anderson, 301–415–2039).

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415–1292. Contact person for more information: Rochelle Bavol, (301) 415–1651.

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/about-nrc/policy-making/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify the NRC's Disability Program Coordinator, Rohn Brown, at 301–492–2279, TDD: 301–415–2100, or by e-mail at *rohn.brown@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an e-mail to *darlene.wright@nrc.gov.*

Dated: April 2, 2009.

Rochelle C. Bavol,

Office of the Secretary.

[FR Doc. E9–7943 Filed 4–3–09; 11:15 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

April 7, 2009 Public Hearing

OPIC's Sunshine Act notice of its Annual Public Hearing meeting was published in the **Federal Register** (Volume 74, Number 56, Page 12913) on March 25, 2009. No requests were received to provide testimony or submit written statements for the record; therefore, OPIC's annual public hearing scheduled for 2 p.m. on April 7, 2009 has been cancelled.

Contact Person for Information: Information on the hearing cancellation may be obtained from Connie M. Downs at (202) 336–8438, via facsimile at (202) 218–0136, or via e-mail at *Connie.Downs@opic.gov.*

Dated: April 3, 2009.

Connie M. Downs,

OPIC Corporate Secretary.

[FR Doc. E9–7922 Filed 4–3–09; 11:15 am]

BILLING CODE 3210–01–P

POSTAL REGULATORY COMMISSION

[Docket No. MC2009–19; Order No. 198]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add postal products to the Mail Classification Schedule. This notice addresses procedural steps associated with this filing.

DATES: Comments are due April 30, 2009.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.*

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

SUPPLEMENTARY INFORMATION: On March 10, 2009, the Postal Service filed a request to add several products to the Mail Classification Schedule (MCS) product lists.[1] The Request is in response to the Commission's ruling in Order No. 154 that six products were properly classified as postal services, but could not be authorized for inclusion in the MCS product lists until formal requirements of the Commission's regulations are met.[2]

The Request is filed pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et. seq.* and includes proposed MCS language,[3] statements of supporting justification, and attachments containing cost and revenue data.[4] Section 3020.30 allows the Postal Service to request the modification of the product lists to add new postal services to either the Market Dominant Product List or the Competitive Product List. The Postal Service must provide detailed support and justification for the request. 39 CFR 3020.31 and 3020.32. The Commission will review the Request and the comments of interested parties and may approve the request, institute further proceedings, permit the Postal Service to modify the request, or take other appropriate action under section 3020.34.

The products requested to be added to the Market Dominant Product List are Address Management Services and Customized Postage. The Postal Service proposes to add these products as Special Services. Request at 2. The products requested to be added to the Competitive Product List are Address Enhancement Service; Greeting Cards,

[1] Request of the United States Postal Service to Add Postal Products to the Mail Classification Schedule in Response to Order No. 154, March 10, 2009 (Request).

[2] Docket No. MC2008–1, Review of Nonpostal Services, December 19, 2008, at 27–38 (Order No. 154). The six services discussed in Order No. 154 were Address Management Services; Customized Postage; Stamp Fulfillment Services; Greeting Cards, Stationery, and Related Items; Shipping and Mailing Supplies; and International Money Transfer Service (IMTS). One of the services, Stamp Fulfillment Services, has been modified and, in the view of the Postal Service, is no longer a postal service. Request at 10. Accordingly, the Request does not include Stamp Fulfillment Services among the services to be added to the MCS. Commenters may wish to address this change. Of the remaining five services discussed in Order No. 154, the market dominant address management services product has retained the name ''Address Management Services'' and has been included on the Market Dominant Product List. The competitive address management services product has been named ''Address Enhancement Service'' and has been included on the Competitive Product List. Finally, IMTS has been separated into an inbound product (IMTS-Inbound) and an outbound product (IMTS-Outbound). As a result, the Postal Service has proposed the addition to the MCS of seven products in place of the six discussed by Order No. 154.

[3] Attachment A to the Request illustrates the proposed changes to the Mail Classification Schedule.

[4] Attachment B is the Statement of Supporting Justification for Address Management Services; Attachment C is the Statement of Supporting Justification for Address Enhancement Service; Attachment D is the Statement of Supporting Justification for Customized Postage; Attachment E is the Statement of Supporting Justification for Greeting Cards, Stationery, and Related Items; Attachment F is the Statement of Supporting Justification for Shipping and Mailing Supplies; Attachment G is the Statement of Supporting Justification for Inbound and Outbound International Money Transfer Services; and Attachment H is the Statement of Supporting Justification for Inbound and Outbound International Money Transfer Service. Cost and revenue data are included for Shipping and Mailing Supplies in Attachment F and for Address Enhancement Service in Attachment C. These attachments, as well as sensitive commercial information contained in the supporting statements, have been filed under seal subject to claims of confidentiality.

Stationery, and Related Items; Shipping and Mailing Supplies; International Money Transfer Service-Outbound (IMTS-Outbound); and International Money Transfer Service-Inbound (IMTS-Inbound). *Id.*

The Postal Service explains that no Governors' decision was required in this case since this request is simply for the placement on the MCS product lists of already-existing products, at already-existing prices. *Id.*

In accordance with section 3020.31(d), the Postal Service states that none of these products constitutes a special classification within the meaning of 39 U.S.C. 3622(c)(10) for market dominant products, or constitutes a nonpostal product. None of these products constitutes a product not of general applicability within the meaning of 39 U.S.C. 3632(b)(3), with the exception of IMTS-Inbound. The terms governing IMTS-Inbound are documented in 10 agreements with foreign postal administrations. *Id.*

The Postal Service states that the 10 negotiated agreements under consideration as the IMTS-Inbound product are functionally equivalent and may be considered price categories within that product. The Postal Service therefore requests the Commission to treat them as functionally equivalent and to classify them collectively as IMTS-Inbound agreements within the MCS. *Id.* at 9–10.[5]

The proposed MCS language in Attachment A of the Request is identical to the MCS language that has previously been filed by the Postal Service with respect to these services,[6] with the four following exceptions. Language for International Money Transfer Service has been revised. The price range for Greeting Cards, Stationery, and Related Items has been revised to take into account an existing stationery set whose price falls outside of the price range as originally proposed. The Customized Postage product has been changed to read ''customer-selected images'' to recognize that customers can order customized postage using library images provided by the vendor or a third party. As the last exception, the name of the competitive address management services has been changed to ''Address Enhancement Service'' to distinguish it from its market dominant counterpart. *Id.* at 3.

The MCS language in Attachment A modifies the language previously filed with the Commission in Docket No. CP2009–8 and creates separate IMTS services to distinguish the inbound exchanges from the outbound exchanges. *Id.* at 7. New language is added to reflect the expectation of the Universal Postal Union (UPU) that member countries will, as of January 1, 2010, designate operators, which may or may not be posts, to fulfill on their behalf the obligations of the UPU's Postal Payment Services Agreement. New language is also proposed for the IMTS-Inbound product and price category. *Id.*

Pursuant to section 3020.33, the Commission provides interested persons an opportunity to express views and offer comments on whether the planned modifications are consistent with the policies of 39 U.S.C. 3633 and 3642 and to indicate whether a hearing is desired. Comments are due no later than April 30, 2009.

Pursuant to 39 U.S.C. 505, Robert Sidman is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in the above-captioned docket.

It is Ordered:

1. Docket No. MC2009–19 is established to consider the Postal Service Request referred to in the body of this order.

2. Comments are due no later than April 30, 2009.

3. The Commission appoints Robert Sidman as Public Representative to represent the interests of the general public in this proceeding.

4. The Secretary shall arrange for publication of this Order in the **Federal Register**.

By the Commission.

Steven W. Williams,

Secretary.

[FR Doc. E9–7770 Filed 4–6–09; 8:45 am]

BILLING CODE 7710–FW–P

[5] The Postal Service has filed by separate notice in this docket material identified as USPS–MC2009–19/1, Public Supporting Materials Relating to International Products. With redactions, the material includes public portions of eight bilateral agreements for International Money Order service. Five of the bilateral agreements that make up the IMTS-Inbound product also have been filed under seal as they include information of a commercial nature relating to commissions and fees. *See* USPS–MC2009–19/NP1, Nonpublic Supporting Materials Relating to Competitive and International Products. *Id.* at 4.

[6] *See* Docket No. CP2009–8, Notice of the United States Postal Service of Changes in Rates of General Applicability for Competitive Products Established in Governors' Decision No. 08–19, Attachment B at 102–04, November 13, 2008 (referring to IMTS); Docket No. MC2008–1, United States Postal Service Notice of Filing of Proposed Mail Classification Schedule Language for Four Products It Requests Should Be Added to the Product Lists as Postal Services, October 17, 2008 (referring to Address Management Services; Customized Postage; Shipping and Mailing Supplies; and Greeting Cards, Stationery and Related Items).

POSTAL SERVICE

Domestic and International Product Changes—Address Management Services; Customized Postage; Address Enhancement Service; Greeting Cards, Stationery, and Related Items; Shipping and Mailing Supplies; International Money Transfer Service-Outbound (IMTS-Outbound); and International Money Transfer Service-Inbound (IMTS-Inbound)

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add Address Management Services and Customized Postage to the list of Market Dominant products in the Mail Classification Schedule (MCS), and to add Address Enhancement Service; Greeting Cards, Stationery, and Related Items; Shipping and Mailing Supplies; International Money Transfer Service-Outbound (IMTS-Outbound); and International Money Transfer Service-Inbound (IMTS-Inbound) to the list of Competitive products in the MCS.

DATES: April 7, 2009.

FOR FURTHER INFORMATION CONTACT: Anthony Alverno, (202) 268–2997.

SUPPLEMENTARY INFORMATION: In accordance with Postal Regulatory Commission Order No. 154 and 39 U.S.C. 3642, the United States Postal Service® hereby gives notice that it has filed with the Postal Regulatory Commission a Request of the United States Postal Service to Add Postal Products to the Mail Classification Schedule in Response to Order No.154. Documents are available at *http://www.prc.gov*, Docket No. MC2009–19.

Neva R. Watson,

Attorney, Legislative.

[FR Doc. E9–7733 Filed 4–6–09; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Market Test of ''Collaborative Logistics'' Experimental Product

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of a market test of an experimental product under 39 U.S.C. 3641.

DATES: April 7, 2009.

FOR FURTHER INFORMATION CONTACT: Scott Reiter, 202–268–2999.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice pursuant to 39 U.S.C. 3641(c)(1) that it will begin a market test of Collaborative Logistics on May 6, 2009. The Postal Service has filed the notice appearing below with the Postal Regulatory Commission; documents are available at *http://www.prc.gov*, Docket No. MT2009–1.

Neva R. Watson,

Attorney, Legislative.

[FR Doc. E9–7765 Filed 4–6–09; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 28685; 812–13525]

Bridgeway Capital Management, Inc.; Notice of Application

April 1, 2009.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order pursuant to section 2(a)(9) of the Investment Company Act of 1940 (''Act'').

SUMMARY OF APPLICATION: Bridgeway Capital Management, Inc. (''Bridgeway Capital'') requests an order declaring that Leonora R. Montgomery (''Leonora Montgomery'') does not control Bridgeway Capital.

APPLICANT: Bridgeway Capital.

FILING DATES: The application was filed on April 21, 2008 and amended on October 2, 2008. Applicant has agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 27, 2009, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090; Applicant, 5615 Kirby Drive, Suite 518, Houston, TX 77005–2448.

FOR FURTHER INFORMATION CONTACT: Steven I. Amchan, Attorney Adviser, at (202) 551–6826, or Marilyn Mann, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549–1520 (telephone (202) 551–5850).

Applicant's Representations:

1. Bridgeway Capital, a Texas corporation, is registered with the Commission as an investment adviser under the Investment Advisers Act of 1940, and is engaged in the business of providing investment advisory services to investment companies registered under the Act (''RICs''), high net worth individuals, and institutional clients. As of the date of the application, Bridgeway Capital has investment advisory or subadvisory agreements with Bridgeway Funds, Inc., Calvert Large-Cap Growth Fund, Equitable Calvert Socially Responsible Portfolio, Valic I—Small Cap Fund, Valic II—Capital Appreciation Fund, State Farm Variable Small/Mid Cap Equity Fund, State Farm Retail Small/Mid Cap Equity Fund, and Calvert New Vision Small Cap-Fund, each of which is an open-end RIC. Bridgeway Capital was founded in 1993 by John N.R. Montgomery (''John Montgomery''). John Montgomery has served as chairman and president of Bridgeway Capital since its inception.

2. The capitalization of Bridgeway Capital currently consists of 3,000 shares of authorized common stock, of which 1,175.877 shares are issued and outstanding (''Bridgeway Capital Common Stock''). As of December 31, 2008, John Montgomery owned 766.800 shares (65.21%), Leonora Montgomery, John Montgomery's mother, owned 359.545 shares (30.58%), Franklin J. Montgomery, John Montgomery's brother, owned 4.714 shares (0.40%), Catherine A. Montgomery, Franklin J. Montgomery's spouse, owned 0.560 shares (0.05%), Bethany M. Hays and Catherine M. Tinsley, John Montgomery's sisters, each owned 0.560 shares (0.05%), Diana Ryan and Diane Matthes, friends of Leonora Montgomery, owned 0.780 shares (0.07%) and 0.280 shares (0.02%) respectively, and the Bridgeway Capital Employee Stock Ownership Program (''ESOP'') owned 42.078 shares (3.58%).

3. Leonora Montgomery received her shares of Bridgeway Capital Common Stock in 1995 and 1996 in exchange for an investment in Bridgeway Capital. Leonora Montgomery does not currently have, nor has she ever had, any significant or material interactions with Bridgeway Capital other than her ownership of Bridgeway Capital Common Stock. She has never served as an officer or director of Bridgeway Capital or been involved in the operation of Bridgeway Capital, and her interest in Bridgeway Capital is purely that of a passive long-term shareholder.

4. Leonora Montgomery executed her written last will and testament (''Will'') on April 19, 2007. The Will provides that at the time of her death, Leonora Montgomery's Bridgeway Capital Common Stock will be transferred in equal amounts to each of her four children (i.e., 7.65% of outstanding Bridgeway Capital Common Stock to each of John Montgomery, Franklin J. Montgomery, Bethany M. Hays and Catherine M. Tinsley based on ownership data as of December 31, 2008). Absent any ensuing issuance of Bridgeway Capital Common Stock, such future transfer of shares will result in the increase of John Montgomery's aggregate share ownership in Bridgeway Capital Common Stock from 65.21% to 72.86% (based on ownership data as of December 31, 2008).

5. No changes are contemplated in the existing management or operations of Bridgeway Capital in connection with the future transfer of Bridgeway Capital Common Stock. John Montgomery will continue to serve as chairman and president of Bridgeway Capital. It is currently contemplated that no share transactions will be effected by Bridgeway Capital that would have the effect of materially reducing John Montgomery's ownership of Bridgeway Capital Common Stock.

Applicant's Legal Analysis:

1. Bridgeway Capital requests an order under section 2(a)(9) of the Act declaring that Leonora Montgomery does not control it. Section 2(a)(9) defines ''control'' as the power to exercise a controlling influence over the management or policies of a company. Section 2(a)(9) also provides that any person who owns beneficially, either directly or through one or more controlled companies, more than 25 percent of the voting securities of a company shall be presumed to control the company. Section 2(a)(9) further provides that this presumption may be rebutted by evidence but continues until a determination to the contrary is made by the Commission. For the reasons set forth below, applicant believes that the

evidence presented in the application rebuts the presumption that Leonora Montgomery controls Bridgeway Capital as a result of her ownership of more than 25 percent of Bridgeway Capital's voting securities.

2. If Leonora Montgomery were determined to control Bridgeway Capital, the future transfer of her Bridgeway Capital Common Stock could be deemed to result in the ''assignment,'' as defined in section 2(a)(4) of the Act, of Bridgeway Capital's investment advisory or subadvisory agreement with each RIC advised or subadvised by Bridgeway Capital at the time of the transfer (''Fund''), resulting in the automatic termination of each investment advisory or subadvisory agreement in accordance with section 15(a)(4) of the Act. If the investment advisory or subadvisory agreements were terminated, a new investment advisory or subadvisory agreement would have to be approved by each Fund's board of directors and shareholders pursuant to section 15(a) of the Act, even though there would be no change to the terms of the investment advisory or subadvisory agreements, or to the investment policies, personnel, operations, or actual control of Bridgeway Capital as a result of the transfer of Bridgeway Capital Common Stock. Bridgeway Capital wants to eliminate the need for a special meeting of the shareholders of each Fund and to avoid the burden and expense of soliciting proxies merely for the purpose of approving an investment advisory or subadvisory agreement that would be identical to the existing investment advisory or subadvisory agreement, which already has been approved by each Fund's board of directors and shareholders in accordance with section 15(a) of the Act.

3. Since Bridgeway Capital's inception, John Montgomery has solely ''controlled'' Bridgeway Capital, as that term is defined in section 2(a)(9) of the Act, and has been involved in the active management of all aspects of the operations and affairs of Bridgeway Capital in his capacity as chairman, president, and majority shareholder. Additionally, the shareholder voting provisions of Bridgeway Capital's articles of incorporation and by-laws support the fact that only John Montgomery controls Bridgeway Capital. For purposes of any meeting of shareholders, a quorum consists of the holders of 50% of the issued and outstanding Bridgeway Capital Common Stock entitled to vote, present in person or by proxy. Furthermore, assuming a quorum is present, any matter to be voted upon must be approved by a vote of a majority of Bridgeway Capital Common Stock present in person or by proxy.[1] Each shareholder is entitled to one vote for each share of Bridgeway Capital Common Stock owned by such shareholder. As a result of John Montgomery's current 65.21% ownership of Bridgeway Capital Common Stock, a quorum cannot be reached without John Montgomery's shares of Bridgeway Capital Common Stock. Moreover, John Montgomery has sufficient voting power to control the election of directors as well as any other matter to be voted upon at a shareholder meeting.[2]

4. Applicant represents that Leonora Montgomery has never exercised, and will not exercise, a controlling influence over the management or policies of Bridgeway Capital and that John Montgomery does and will exercise control over its management. Applicant thus submits that the facts prescribed in the application rebut the presumption of control created by section 2(a)(9) of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–7776 Filed 4–6–09; 8:45 am]

BILLING CODE 8010–01–P

[1] Bridgeway Capital's Articles of Incorporation do include one provision requiring a three-fourths affirmative vote of creditors or shareholders, as the case may be, to agree to proposed compromises or arrangements (including a reorganization) between Bridgeway Capital and its creditors or shareholders, as the case may be, over which a court has jurisdiction.

[2] Since April 1995, when Leonora Montgomery became a shareholder in Bridgeway Capital, Leonora Montgomery has voted on each matter that has required a shareholder vote (whether at a formal shareholder meeting or by written consent) in the same manner as John Montgomery. Additionally, even if Leonora Montgomery did attempt to exercise actual control, John Montgomery is the majority shareholder, and as such, Leonora Montgomery could only have a limited influence on the operations of Bridgeway Capital.

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [74 FR 14829, April 1, 2009.]

STATUS: Closed Meeting.

PLACE: 100 F Street, NE., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Thursday, April 2, 2009 at 2 p.m.

CHANGE IN THE MEETING: Time Change.

The Closed Meeting scheduled for Thursday, April 2, 2009 at 2 p.m. has been changed to Thursday, April 2, 2009 at 3 p.m.

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: April 2, 2009.

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–7848 Filed 4–6–09; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Xino Corp. (n/k/a Asher Xino Corp.), Xstream Mobile Solutions Corp., Yellowbubble.com, Inc. (n/k/a Reality Racing, Inc.), Yes! Entertainment Corp., and Yifan Communications, Inc.; Order of Suspension of Trading

April 3, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Xino Corp. (n/k/a Asher Xino Corp.) because it has not filed any periodic reports since it filed a Form 10–QSB for the period ended September 30, 2002.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Xstream Mobile Solutions Corp. because it has not filed any periodic reports since it filed a Form 10–KSB for the period ended September 30, 2006.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Yellowbubble.com, Inc. (n/k/a Reality Racing, Inc.) because it has not filed any periodic reports since it filed a Form 10–QSB for the period ended March 31, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Yes! Entertainment Corp. because it has not filed any periodic reports since it filed a Form 10–Q for the period ended September 30, 1998.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Yifan

Communications, Inc. because it has not filed any periodic reports since it filed a Form 10–QSB for the period ended March 31, 2006.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on April 3, 2009, through 11:59 p.m. EDT on April 17, 2009.

By the Commission.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E9–7984 Filed 4–3–09; 4:15 pm]

BILLING CODE

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59680; File No. SR–ISE–2009–13]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Definition of ''Primary Market''

April 1, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 25, 2009, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared by the Exchange. The Exchange has filed the proposal 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 amend Rule 701 (Trading Rotations) to replace references to the ''primary market'' with respect to an underlying security with references to ''market for the underlying security.'' The text of the proposed rule change is available on the Exchange's Web site *http://www.ise.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The 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

The purpose of the proposed rule change is to amend the current definition of ''primary market'' in ISE Rule 701 to allow the Primary Market Makers (''PMMs'') more flexibility in opening trading in a particular class of options.

Currently, Exchange Rule 701(b)(2) requires that the PMM open each class of options promptly following the opening of the underlying security in the primary market where it is traded. An underlying security is deemed to be open on the primary market where it is traded if such market has (i) reported a transaction in the underlying security, or (ii) disseminated opening quotations for the underlying security and not given an indication of the delayed opening, whichever occurs first.

The Exchange believes that the current definition of ''primary market'' and when a security on such primary market has been ''opened for trading'' is insufficient to capture the various marketplaces that might be determined to be the ''primary market'' for such underlying securities. Because underlying securities trade on multiple exchange platforms and various Electronic Communication Networks (''ECNs'') and other venues, the term ''primary market'' has become increasingly difficult to define in determining the principal market in which the underlying security is traded.

Accordingly, the Exchange proposes to amend Rule 701 to eliminate the requirement that PMMs wait to open each class of options until the ''primary market'' has opened the underlying security, and redefine ''primary market'' by adopting a definition of ''market for the underlying security''. Under this proposal, the term ''market for the underlying security'' would mean either the primary listing market, the primary volume market (defined as the market with the most liquidity in that underlying security for the previous two calendar months), or the first market to open the underlying security as determined by the Exchange on an issue-by-issue basis and communicated to the members on the Exchange's Web site.

The Exchange believes that the elimination of the term ''primary market'' from rule, together with the proposed definition of ''market for the underlying security,'' will allow PMMs to open classes of options expeditiously and in tandem with the other markets, thus allowing for a more orderly opening rotation.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to promote just and equitable principles of trade, and 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. The Exchange believes that the proposed rule change will provide PMMs greater flexibility in opening trading in options, which should result in options opening across all markets in a fair and orderly manner.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated the proposed rule change as one that: (i) Does not significantly affect the

[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).

protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Additionally, the Exchange provided the Commission with written notice of its intention to file the proposed rule change at least five business days before its filing. Therefore, the foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [5] and Rule 19b–4(f)(6) thereunder.[6] The Exchange believes that the proposed rule change will provide PMMs with greater flexibility in opening trading in options, which should result in options opening across all markets in a fair and orderly manner. Additionally, this proposed rule change is substantially similar to Chicago Board Options Exchange (''CBOE'') Rule 6.2B(b) [7] and NASDAQ OMX PHLX, Inc. (''Phlx'') Rule 1017.[8] For the foregoing reasons, this rule filing qualifies for immediate effectiveness as a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 of the Act.[9]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *http://www.sec.gov/rules/sro.shtml)*; or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–ISE–2009–13 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–ISE–2009–13. 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 Commissions 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 filings also will be available for inspection and copying at the principal office of the ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2009–13 and should be submitted on or before April 28, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–7833 Filed 4–6–09; 8:45 am]

BILLING CODE 8010–01–P

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(f)(6).

[7] *See* Securities Exchange Act Release No. 56600 (October 2, 2007), 72 FR 57619 (October 10, 2007)(SR–CBOE–2007–88).

[8] *See* Securities Exchange Act Release No. 58929 (November 12, 2008), 73 FR 68471 (November 18, 2008)(SR–Phlx–2008–75).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59664; File No. SR–OCC–2009–04]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Commodity Options

March 31, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on March 20, 2009, The Options Clearing Corporation (''OCC'') 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 primarily by OCC. OCC filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [2] and Rule 19b–4(f)(4) [3] thereunder so that the proposal was 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 proposed rule change would revise OCC's By-Laws and Rules to accommodate conventional cash-settled commodity options, binary commodity options, and event options.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[4]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The primary purpose of the proposed rule change is to revise OCC's By-Laws and Rules to accommodate conventional

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78s–1(b)(3)(A)(iii).

[3] 17 CFR 240.19b–4(f)(4).

[4] The Commission has modified parts of these statements.

cash-settled commodity options, binary commodity options, and event options. A general description of each option product follows below. Additionally, OCC is proposing to simplify the By-Laws and Rules by amending the definition of the term ''Exchange'' to refer to any exchange, futures market, security futures market, or international market for which OCC clears transactions and by revising the language of numerous provisions of its By-Laws and Rules to reflect this amended definition.

Conventional Cash-Settled Commodity Options

Conventional cash-settled commodity options are cash-settled options on the spot price of physical commodities such as precious metals, energy-related commodities such as oil or natural gas, or other physical commodities. Conventional cash-settled commodity options will settle upon exercise based on some specified benchmark price for the underlying commodity. The exercise settlement amount for an in-the-money option will be the product of the multiplier and the difference between the final underlying interest value and the strike price. The listing exchange or other reporting authority will report the final underlying interest value of the underlying commodity to OCC for the purpose of determining the exercise settlement amount.

Binary Commodity Options

Binary commodity options are binary cash-settled options on the spot price of physical commodities. Binary commodity options will be automatically exercised and will pay a fixed exercise settlement amount if the spot price of the underlying commodity on the expiration date is greater than or equal to the specified strike price and will otherwise expire unexercised. Other kinds of binary commodity options may be structured such that call options pay only if the price of the underlying commodity is above and not merely equal to the underlying benchmark price and that put options pay if the price of the underlying commodity is less than or equal to the underlying benchmark price.

Event Options

Event options are a type of binary option that pay a fixed cash settlement amount upon the occurrence of a specified event such as a positive change in U.S. gross domestic product for a particular time period. Event options are automatically exercised immediately upon confirmation of the occurrence of a defined event. The listing exchange or other reporting authority will monitor data reported by the official sources and will notify OCC when the underlying event is determined to have occurred. Event options may be referred to in Exchange rules as ''capped-style'' event options but are referred to in OCC's rules simply as ''event options.''

Exchange rules may also provide for ''European-style'' event options. An example would be a trade deficit option for which settlement is based upon U.S. trade deficit data. A trade deficit call option would pay a fixed exercise settlement amount if the trade deficit for a specified month is greater than or greater than or equal to the specified strike price, and a trade deficit put option would pay a fixed exercise settlement amount if the trade deficit for a specified month is less than or less than or equal to the specified strike price. In-the-money trade deficit options would be automatically exercised on the expiration date. ''European-style event options'' are referred to in OCC's rules simply as ''binary options'' because they are based on the level of an underlying measure or metric at a specified point in time rather than an event that can occur at any time during the life of the option.

Changes in General Terminology

To accommodate conventional commodity options and binary commodity options, OCC proposes to introduce the term ''commodity option'' and to add references to commodity options where the By-Laws and Rules now refer to ''futures options'' where appropriate. The definitions of ''Call'' and ''Put'' in Article I of the By-Laws would be amended to clarify their meanings with regard to futures options. In connection with the introduction of commodity options, the term ''underlying interest'' would be amended to include commodities as possible underlying interests. Commodity options are not ''securities.'' Therefore, OCC proposes to replace ''underlying security'' and ''cleared securities'' with ''underlying interest'' and ''cleared contracts,'' respectively, in the definitions of certain terms related to options, such as ''call'' and ''opening purchase transaction.''

OCC also proposes to simplify its By-Laws and Rules by revising the term ''Exchange.'' Currently, the term includes only national securities exchanges. Accordingly, in numerous places in the By-Laws and Rules, where the intended reference is to any market for which OCC clears transactions, the term ''Exchange'' is accompanied by ''international market, futures market or security futures market,'' or a similar phase. OCC proposes to revise the definition of Exchange to include all such markets and to eliminate the numerous references to each type of market for which OCC clears transactions. The revised definition of Exchange will be more consistent with the definitions of ''Exchange transaction'' and ''Exchange rules'' because the scope of each of these latter terms includes non-securities exchanges or markets for which OCC clears transactions. In addition, OCC proposes to introduce the term ''Securities Exchange'' to refer to national security exchanges. In instances in which the reference to ''Exchange'' in the By-Laws and Rules is necessarily limited to a specific type of market, such as a Securities Exchange or ''Equity Exchange'' as defined in the By-Laws, OCC proposes to replace the term ''Exchange'' with the appropriate term.

Finally, OCC proposes to amend the definition of ''multiplier'' to address the use of this term in connection with cash-settled options other than index options.

Changes With Respect to Cash-Settled Commodity Options Generally

Section 1 of Article XII sets forth conditions for OCC to clear futures and futures options for an Exchange. Because the same conditions would apply for OCC to clear commodity options for an Exchange, OCC proposes to make Section 1 applicable to commodity options. Rule 1303 pertains to OCC's arrangement with an associate clearinghouse to enable members of the associate clearinghouse to clear futures and futures options through the facilities of OCC. OCC proposes that Rule 1303 would potentially apply to all commodity options although the contracts to be included in any particular such arrangement are agreed upon by OCC and the other clearing organization on a case-by-case basis.

Existing provisions in By-Law Article XII and Rule Chapter XIII already provide for clearance of futures options. As discussed below, OCC proposes to address cash-settled commodity options separately in other Articles of its By-Law Articles and Chapters of its Rules. The introductions to By-Laws Articles XII, XIV and XVII and Rules Chapters XIII, XV and XVIII would be amended to reflect their proposed scope.

OCC is proposing to amend the definitions of ''Call'' and ''Put'' in Article I of the By-Laws to clarify their meanings with respect to futures options. In addition, for purposes of clarification, OCC proposes to update Interpretation and Policy .01 to Article VI, Section 9 to state that general rights

and obligations of holders and writers of cleared contracts other than stock options are governed by the provisions of those Articles of the By-Laws pertaining to such products and not by Subsections (a) and (b) Section 9 of Article VI.

Changes With Respect to Event Options and Binary Commodity Options

To accommodate event options and binary commodity options, OCC proposes to broaden By-Law Article XIV and Rule Chapter XV, which currently apply only to binary options and range options for which the underlying interest is a security or securities index. Credit default options (''CDOs'') and credit default basket options (''CDBOs'') are the only types of event options currently addressed by these provisions of the By-Laws and Rules. OCC proposes to modify the existing framework of rules governing CDOs and CDBOs to support clearance of event options in general while retaining certain definitions and provisions that are applicable only to CDOs and/or CDBOs.

Article XIV of the By-Laws, which presently applies to CDOs and CDBOs as well as to other binary options and range options, is proposed to be amended to apply to the event options and other binary options proposed by CFE. Section 1 would be amended to add a definition of ''event option,'' which in OCC's lexicon would be confined to binary options that are automatically exercised upon the occurrence of a specified event. CDOs and CDBOs would be defined as specific kinds of event options. Event options, in turn, would be a subcategory of binary options. Certain terms applicable to CDOs and CDBOs would be made more generic so as to apply to all event options. Other definitions would be amended to accommodate event options, and to provide that underlying interests for binary options and range options may include commodities. Other sections of Article XIV are amended to, among other things, specify which provisions are unique to CDOs and CDBOs and which apply to event options generally. Although no market has yet proposed to trade range options on underlying commodities, the proposed rule amendments are broad enough to accommodate such trading.

Existing adjustment provisions in Section 3 of Article XIV, which defer entirely to the listing market to determine adjustments for CDOs and CDBOs, will be made to apply to all event options. This is appropriate because OCC anticipates that the definitions of underlying events and other terms of these products will be unique to the listing market. Existing Section 3A will apply to binary options other than event options and range options where the underlying interest is a security or an index of securities, and OCC is proposing a new Section 3B to provide for adjustments to binary options other than event options and range options where the underlying interest is a commodity rather than a security or index of securities. Adjustments under Section 3B will be made by OCC rather than through an adjustment panel as is the case for securities products under Section 3A.

Rules in Chapter V are being amended to provide for event options, other binary options and range options on underlying commodities. The changes intended to accommodate the new contracts govern among other things the automatic exercise of event options and binary options and exercise settlement. They also provide that binary options and event options on commodities that when carried for the accounts of customers, must be carried in the customers' segregated funds account in accordance with CFTC regulations.

Changes With Respect to Cash-Settled Conventional Commodity Options

OCC proposes to provide for clearance of cash-settled conventional commodity options by expanding the scope of By-Law Article XVII and Rule Chapter XVIII, which currently cover only index options.

Article XVII

OCC proposes to amend the definitions of numerous terms to apply to cash-settled options generally. Other provisions of Article VII are also amended to make them more generic to cash-settled options generally. Provisions limited to index options are retained where appropriate and in many cases are made applicable to options on commodity indexes as well as securities indexes. OCC proposes to substitute the term ''cash-settled option'' for the term ''index option'' in Article XVII, Section 2 so that it will apply to cash-settled options generally. Section 3 of Article XVII will govern adjustments to cash-settled options generally. A new proposed paragraph (b) would address adjustments to cash-settled options overlying a single commodity. Under the proposed amendments, OCC rather than an adjustment panel will decide when and what adjustments may be necessary in light of various policy considerations. Existing paragraph (b), which governs adjustments of index options, would be renumbered as paragraph (c) and amended to reflect the inclusion of commodities as possible components of an underlying index.

Similarly, existing Section 4 of Article XVII, which defines OCC's rights and obligations in situations in which the current index value of an index option is unavailable or otherwise determined to be inaccurate will be amended to expand its application to cover unavailability or inaccuracy of values for any underlying interest.

Chapter XVIII, Rules 1802–1806

OCC proposes to amend Rules 1802–1806 so that they will apply to cash-settled options generally. The term ''cash-settled option'' would be substituted for the term ''index option'' and the term ''current interest value'' would be substituted for the term ''current index value'' in Rules 1802–1806. In addition, OCC proposes to amend paragraphs 1801(a)(1) and (a)(2) to specify the conditions under which Clearing Member will pay the exercise settlement to or receive the exercise settlement from OCC with respect to an exercised cash-settled option other than an index option. OCC also proposes to substitute the term ''cash-settled option'' for the term ''index option'' and make a small number of other corrections to certain defined terms in Rules 1802, 1803, 1804, and 1805 so that they will apply to cash-settled options generally.

Chapter XVIII, Rules 1807

Cash-settled commodity options will be carried in a Clearing Member's segregated futures account(s). Therefore, to maintain consistency with Rule 1104, OCC proposes to amend Rule 1807 so that the net settlement amount with respect to exercised cash-settled commodity options is paid from or credited to a suspended Clearing Member's Segregated Liquidating Settlement Account.

In several other places in the By-Laws and Rules where references are made to index options, OCC proposes to substitute the term ''cash-settled option'' for the term ''index option'' and the term ''current underlying interest value'' for the term ''current index value.''

Finally, OCC proposes to amend the terms of Article VI, Section 2 of the By-Laws, which concerns the initial clearing fund contribution of clearing members, to be consistent with the terms of Rule 1001. Rule 1001 provides that affiliates of existing Clearing Members that become Clearing Members of OCC solely for the purpose of clearing transactions in security futures, commodity futures, and/or futures options need not put up an additional

$150,000 minimum Clearing Fund contribution. OCC would expand this exemption to also apply to commodity options.

The proposed rule change is consistent with the purposes and requirements of Section 17A of the Act because it provides for the clearance of various commodity futures and options products without adversely affecting the prompt and accurate clearance and settlement of transactions in securities options, the prompt and accurate clearance and settlement of securities transactions, or the protection of securities investors and the public interest. The proposed rule change accomplishes this purpose by applying substantially the same rules and procedures to transactions in futures products that OCC applies to transactions in securities options. The proposed rule change is not inconsistent with any rules of OCC, including any rules proposed to be amended.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [5] and Rule 19b–4(f)(4) [6] promulgated thereunder because the proposal changes effects a change in an existing service of a registered clearing agency that (i) does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and (ii) does not significantly affect the respective rights or obligations of the clearing agency or persons using the service. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–OCC–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–OCC–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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–OCC–2009–04 and should be submitted on or before April 28, 2009.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[7]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–7710 Filed 4–6–09; 8:45 am]

BILLING CODE 8010–01–P

[5] 15 U.S.C. 78s(b)(3)(A)(iii).

[6] 17 CFR 240.19b–4(f)(4).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59666; File No. SR–NYSE–2009–35]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange LLC Amending Rule 48.10 To Extend the Temporary Provisions of the Rule Relating to the Ability of the Exchange To Declare an Extreme Market Volatility Condition and Suspend Certain NYSE Requirements Relating to the Closing of Securities at the Exchange

March 31, 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 March 23, 2009, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [4] and Rule 19b–4(f)(6) thereunder,[5] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 48.10 to extend the temporary provisions of the rule relating to the ability of the Exchange to declare an extreme market volatility condition and suspend certain NYSE requirements relating to the closing of securities at the Exchange. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com*.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 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 self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 48.10 to temporarily extend the provisions of the rule relating to declaring an extreme market volatility condition at the close.[6]

On October 2, 2008, the Exchange filed for immediate effectiveness to amend NYSE Rule 48 to provide the Exchange with the ability to suspend certain rules at the close when extremely high market volatility could negatively affect the ability to ensure a fair and orderly close.[7] The Exchange amended Rule 48 on an immediate effectiveness basis in order to respond swiftly to market conditions at that time. Those amendments were adopted on a temporary basis with the understanding that if the Exchange would like to adopt the closing provisions on a permanent basis, such proposal must be filed for notice and comment.

The Exchange has filed a rule proposal to amend Rules 48 and 123C to delete from Rule 48 the provisions relating to declaring an extreme market volatility condition at the close and add them in modified form to Rule 123C (the ''Rule 48/123C filing'').[8] That rule proposal has been filed under Section 19(b)(2) of the Securities Exchange Act of 1934 (the ''Act'')[9] and has been noticed for public comment. The comment period for that filing ends on March 31, 2009. In anticipation of the Rule 48/123C filing, the Exchange previously amended Rule 48.10 to extend from December 31, 2009 to March 27, 2009 the temporary time period that the Rule 48 at-the-close provisions would be in effect.[10] The Exchange now proposes to temporarily extend the Rule 48 at-the-close provisions pending the outcome of the Rule 48/123C filing. Accordingly, the Exchange proposes to amend Rule 48.10 to provide that the provisions of that rule relating to declaring an extreme market volatility condition at the close will end April 30, 2009.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[11] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, this rule proposal will permit the temporary provisions of Rule 48 to continue without interruption pending the outcome of the Rule 48/123C filing.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change:

(i) Does not significantly affect the protection of investors or the public interest;

(ii) Does not impose any significant burden on competition; and

(iii) By its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13]

The Exchange has requested that the Commission waive the 30-day operative delay in order to permit the temporary provisions of Rule 48 to continue without interruption pending the outcome of the Rule 48/123C filing. The Commission believes such waiver is consistent with the protection of investors and the public interest.[14] Accordingly, the Commission designates the proposed rule change operative upon filing with the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the 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–2009–35 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–2009–35. This file

[6] NYSE Amex LLC has filed a companion rule filing to conform its Equities Rules to the changes proposed in this filing. *See* SR–NYSEAmex–2009–05, formally submitted March 23, 2009).

[7] *See* SEC Release No. 58743 (Oct. 7, 2008), 73 FR 60742 (Oct. 14, 2008) (SR–NYSE–2008–102).

[8] *See* SEC Release No. 59489 (Mar. 3, 2009), 74 FR 10330 (Mar. 10, 2009 (SR–NYSE–2009–18). NYSE Amex US LLC [sic] (''NYSE Amex'') has filed a companion rule filings. *See* SEC Release No. 59488 (Mar. 3, 2009), 74 FR 10334 (Mar. 10, 2009) (SR–NYSEALTR–2009–15).

[9] 15 U.S.C. 78s(b)(2).

[10] *See* SEC Release No. 59168 (Dec. 29, 2008), 74 FR 483 (Jan. 6, 2009) (SR–NYSE–2008–139). NYSE Amex also filed a companion rule filing. *See* SEC Release No. 59169 (Dec. 29, 2008), 74 FR 485 (Jan. 6, 2009) (SR–NYSEALTR–2008–18).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the self-regulatory organization to submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[14] For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–NYSE–2009–35 and should be submitted on or before April 28, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–7711 Filed 4–6–09; 8:45 am]

BILLING CODE 8010–01–P

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59675; File No. SR–OCC–2009–05]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Flexibly Structured Options

April 1, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,[1] notice is hereby given that on March 19, 2009, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by OCC. OCC filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[2] and Rule 19b–4(f)(4) thereunder[3] so that the proposal was 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 the Substance of the Proposed Rule Change

The proposed rule change will amend OCC's By-Laws in order to clear and settle flexibly structured options traded on the Chicago Board Options Exchange (''CBOE'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Flexibly structured options are options that give investors the ability to customize basic option features including size, expiration date, exercise style, and certain exercise prices. Currently, options exchanges generally do not permit flexibly structured options to be customized to expire on the same expiration date as any series of non-flexibly structured options that are listed for trading.[4] However, pursuant to a recent CBOE rule change, CBOE eliminated this restriction so that the parties to a flexibly structured option transaction can choose an expiration date that coincides with that of a series of non-flexibly structured options.[5] As a result of eliminating the expiration date restriction, it is now possible for new flexibly structured options to become fungible with a series of non-flexibly structured options that are subsequently listed for trading. Thus, CBOE now permits flexibly structured options to be traded before identical non-flexibly structured options are listed for trading. Once an option series is listed on CBOE for trading as a non-flexibly structured option series, (i) all existing flexibly structured options having identical terms as the non-flexibly structured option series will be fully fungible with options in such series and (ii) any further trading in such series would be as non-flexibly structured options. As an exception to the foregoing, flexibly structured options will not become fungible with subsequently-introduced non-flexibly structured quarterly options or short term options.

In order to clear and settle flexibly structured options traded on CBOE in a manner that is consistent with CBOE's rules, OCC will change the definition of ''flexibly structured option'' in Article I of its By-Laws to clarify that an option will be classified as a flexibly structured option only if its variable terms do not correspond to the variable terms of any series of non-flexibly structured options listed for trading other than a series of quarterly options or short term options. Furthermore, existing flexibly structured options will be fungible with options in a subsequently listed non-flexibly structured option series other than quarterly options or short term options that have identical variable terms and will not be classified as flexibly structured options. The definition of ''flexibly structured option'' in Article XVII, Section 1 of OCC's By-Laws will be deleted because such definition is redundant. OCC will also amend the definition of ''variable terms'' in Article I of the By-Laws to clarify that the expiration date is a variable term for all types of options. Finally, other parts of the definition will also be revised to group together variable terms of option contracts and variable terms of futures contracts.

Prior to this rule change, OCC's rules provided that an expiring flexibly structured index option with an exercise settlement amount of $1.00 or more was automatically exercised on its expiration date. In comparison, an expiring non-flexibly structured index option with an exercise settlement amount of $1.00 or more except quarterly options or short term options was subject to the ''exercise by exception'' procedures under which the option will be exercised on its expiration date if the option holder does not give contrary exercise instructions. However, as described above, flexibly

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78s(b)(3)(A)(iii).

[3] 17 CFR 240.19b–4(f)(4).

[4] There are exceptions to this general prohibition. Subject to certain aggregation requirements for cash-settled options, CBOE permits flexibly structured options to expire on the same day as non-flexibly structured quarterly options and non-flexibly structured weekly options. Non-flexibly structured weekly options are called ''short term options'' in OCC's By-Laws and Rules. CBOE Rules 24A.7(d) and 24B.7(d).

[5] Securities Exchange Act Release No. 59417 (Feb. 18, 2009), 74 FR 8591 (Feb. 25, 2009) [SR–CBOE–2008–115].

structured options that become fungible with non-flexibly structured options will cease to be classified as flexibly structured options. Therefore, such flexibly structured options will cease to be subject to automatic exercise at expiration and will instead be subject to exercise by exception like the non-flexibly structured options with which they have become fungible.

OCC believes that the proposed changes to OCC's By-Laws and Rules are consistent with the purposes and requirements of Section 17A of the Act[6] because they are designed to promote the prompt and accurate clearance and settlement of transactions in, including exercises of, flexibly structured options and to foster cooperation and coordination with persons engaged in the clearance and settlement of such transactions, to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of such transactions, and, in general, to protect investors and the public interest. It accomplishes these purposes by maintaining consistency between OCC's By-Laws and Rules and CBOE's rules as applied to the clearance and settlement of flexibly structured options. The proposed rule change is not inconsistent with the existing By-Laws and Rules of OCC, including any rules proposed to be amended.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

OCC has not solicited or received written comments with respect to the proposed rule change. OCC will notify the Commission of any written comments it receives.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f) thereunder because the proposed rule effects a change in an existing OCC service that (i) does not adversely affect the safeguarding of securities or funds in OCC's custody or control or for which OCC is responsible and (ii) does not significantly affect OCC's respective rights or obligations or persons using the service. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogated 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-comment@sec.gov*. Please include File No. SR–OCC–2009–05 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–OCC–2009–05. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. to 3 p.m. Copies of such filing also will be available for inspection and copying at OCC's principal office and on OCC's Web site at *http://www.theocc.com/publications/rules/proposed_changes/proposed_changes.jsp*. 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–OCC–2009–05 and should be submitted on or before April 28, 2009.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–7774 Filed 4–6–09; 8:45 am]

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[6] 15 U.S.C. 78q–1.

[7] 15 U.S.C. 78a(b)(3)(A).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59679; File No. SR–ISE–2007–97]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto Relating to Market Data Fees

April 1, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 5, 2007, International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') 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. On March 9, 2009, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend its Schedule of Fees to establish fees for a real-time depth of market data offering. The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaced and superseded the original filing in its entirety.

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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

ISE currently creates market data that consists of options quotes and orders and all trades that are executed on the Exchange. ISE also produces a Best Bid/Offer, or BBO, with the aggregate size from all outstanding quotes and orders at the top price level, or the ''top of book.'' This ''core''[4] data is formatted according to Options Price Reporting Authority (''OPRA'') specification and sent to OPRA for redistribution to the public.

In addition to the BBO ''core'' data, the Exchange also produces a ''non-core'' data feed, the ISE Depth of Market Data Feed (''Depth of Market''), a service that aggregates all quotes and orders at the top five price levels, on both the bid and offer side of the market. The Depth of Market offering consists of non-marketable orders and quotes that a prospective buyer or seller has chosen to display. The purpose of this proposed rule change is to establish fees for the ISE Depth of Market offering. Depth of Market, which is distributed in real time, provides subscribers with a consolidated view of tradable prices beyond the BBO. Further, Depth of Market shows additional liquidity and enhances transparency for ISE traded options that is not currently available through the OPRA feed. The proposed offering is available to members and non-members, and to both professional and non-professional subscribers.

ISE believes that it has consistently supported the broadest, most effective dissemination of market information to public investors. Its multiple filings regarding ''non-core'' market data have provided market participants with tools to enhance their trading opportunities.[5]

The Exchange proposes to charge distributors[6] of Depth of Market $5,000 per month. In addition, the Exchange proposes to charge the distributor a monthly fee per controlled device[7] of (i) $50 per controlled device for Professionals at a distributor where the data is for internal use only, (ii) $50 per controlled device for Professionals who receive the data from a distributor where the data is further redistributed externally, and (iii) $5 per controlled device for Non-Professionals who receive the data from a distributor. The Exchange proposes to limit for any one month the combined maximum amount of fees payable by a distributor, as follows: (i) $7,500 for Professionals at a distributor where the data is for internal use only, (ii) $12,500 for Professionals where the data is further redistributed externally in a controlled device, and (iii) $10,000 for Non-Professionals who receive the data in a controlled device from a distributor. In an effort to accommodate a distributor's development effort to integrate the Depth of Market offering, the Exchange proposes to charge distributors a flat fee of $1,000 for the first month after connectivity has been established between ISE and the distributor. Further, the Exchange proposes to waive all user fees during this one month period.

In differentiating between Professional and Non-Professional subscribers, the Exchange proposes to apply the same criteria for qualification as a Non-Professional subscriber as the Consolidated Tape Association (''CTA'') Plan and Consolidated Quotation System Plan Participants use. Accordingly, a ''Non-Professional Subscriber'' is an authorized end-user of Depth of Market data who is a natural person and who is neither: (a) Registered or qualified with the Securities and Exchange Commission (the ''Commission''), the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (b) engaged as an ''investment advisor'' as that term is defined Section 202(a)(11) of the Investment Advisers Act of 1940 (whether or not registered or qualified under that act); nor (c) employed by a bank or other organization exempt from registration under Federal and/or state securities laws to perform functions that would require him/her to be so registered or qualified if he/she were to perform such functions for an organization not so exempt. A ''Professional Subscriber'' is an authorized end-user of Depth of Market that has not qualified as a Non-Professional Subscriber.

Under the proposal, the Exchange would apply one device fee in respect of professional subscribers to Depth of Market and a different, lower device fee in respect of non-professional subscribers. The use of a lower fee for non-professional subscribers than for professional subscribers has a long history. CTA first adopted a non-professional subscriber fee 25 years ago.[8] Since then, individual investors have had broadened access to real-time market information. The Exchange believes that a non-professional subscriber fee for Depth of Market will likely lead to greater access by individual investors to Depth of Market information and thereby to further the statutory goals expressed in Section 11A(a)(1)(c) of the Securities Exchange Act of 1934 (the ''Exchange Act'').

Further, Section 603(a)(2) of Regulation NMS requires markets to distribute market data ''on terms that are not unreasonably discriminatory.'' Given the differences in data usage between professional subscribers and non-professional subscribers and the industry's long acceptance of different fees for professional subscribers and non-professional subscribers, the Exchange believes that the proposed

[4] ''Core'' data refers to the best-priced quotations and comprehensive last sale reports of all markets that the Commission requires a central processor to consolidate and distribute to the public pursuant to joint-SRO plans. ''Non-core'' data refers to products other than the consolidated products that markets offer collectively under joint industry plans.

[5] *See* Securities Exchange Act Release Nos. 53212 (February 2, 2006), 71 FR 6803 (February 9, 2006) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Establishing Fees for Historical Options Tick Market Data); 53390 (February 28, 2006), 71 FR 11457 (March 7, 2006) (Order Granting Accelerated Approval of a Proposed Rule Change Establishing Fees for Historical Options Tick Market Data for Non-Members); 53756 (May 3, 2006), 71 FR 27526 (May 11, 2006) (Order Granting Approval of a Proposed Rule Change Establishing Fees for Enhanced Sentiment Market Data); 56254 (August 15, 2007), 72 FR 47104 (August 22, 2007) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to ISE Open/Close Trade Profile Fees; 56315 (August 24, 2007), 72 FR 50148 (August 30, 2007) (Order Approving a Proposed Rule Change Relating to ISEE Select Market Data Fees).

[6] ISE proposes that a ''distributor'' be defined as any firm that receives an ISE data feed directly from ISE or indirectly through a ''redistributor'' and then distributes it either internally or externally. Further, ISE proposes that all distributors execute an ISE distributor agreement. ''Redistributors'' include market data vendors and connectivity providers such as extranets and private network providers.

[7] ISE proposes that a ''controlled device'' be defined as any device that a distributor of the ISE Depth of Market permits to access the information in the Depth of Market offering.

[8] *See* the Sixth Substantive Amendment and Sixth Charges Amendment to the CTA Plan, File No. S7–433, Release Nos. 34–20002 (July 22, 1983), 34–20239 (September 30, 1983) and 34–20386 (November 17, 1983).

non-professional subscriber fee does not unreasonably discriminate against the professional subscriber fee.

The Exchange believes the proposed fees for Depth of Market 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. 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''),[9] 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.''[10]

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.[11]

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.[12]

The options industry is subject to significant competitive forces and the introduction of the Depth of Market offering is just one response to that competition. The options Exchanges compete intensely for order flow. The primary purpose of any ''non-core'' data offering by an Exchange is to attract order flow. Attracting order flow is a significant concern of any exchange, be it an equity, options or futures exchange. ''If an exchange cannot attract orders, it will not be able to execute transactions. If it cannot execute transactions, it will not generate transaction revenue. If an exchange cannot attract orders or execute transactions, it will not have market data to distribute,''[13] or to monetize.

ISE currently competes with six other options exchanges for order flow and ''the competition is fierce.''[14] The number of registered options exchanges in the United States has increased 75% since ISE itself became an exchange in 2000. Although ISE's total volume increased in 2008 over 2007, its market share suffered a decline. The table below details market share among the options exchanges in all listed products from 2006 through 2008, showing increases and decreases in market share quarter-by-quarter.

QUARTERLY MARKET SHARE BASED ON AVERAGE DAILY VOLUME

Period	ISE	%	AMEX	%	BOX	%	CBOE	%	NYSEArca	%	PHLX	%	NSDQ	%
Q1 06	30.46		10.05	▼	5.04	▼	31.79		9.98	▼	12.68	▼	n/a	
Q2 06	29.05	▼	9.62	▼	4.92	▼	35.25		8.46	▼	12.70		n/a	
Q3 06	29.59		9.66		4.64	▼	33.81	▼	9.29		13.01		n/a	
Q4 06	27.86	▼	9.56	▼	4.07	▼	32.24	▼	10.96		15.30		n/a	
Q1 07	27.76	▼	9.60		4.08		33.73		11.40		13.42	▼	n/a	
Q2 07	28.20		8.88	▼	4.32		33.92		10.81	▼	13.88		n/a	
Q3 07	28.11	▼	8.02	▼	4.88		34.05		10.60	▼	14.34		n/a	
Q4 07	28.25		7.49	▼	4.71	▼	30.77	▼	13.71		15.06		n/a	
Q1 08	29.40		6.02	▼	4.66	▼	31.97		13.44	▼	14.50	▼	n/a	
Q2 08	28.79	▼	6.16		5.16		32.28		11.37	▼	15.61		0.63	
Q3 08	27.55	▼	5.54	▼	4.87	▼	34.04		11.27	▼	15.50	▼	1.23	
Q4 08	26.81	▼	5.46	▼	5.29		34.88		10.45	▼	15.51		1.60	

Despite the frequent variations in market share, no single exchange has more than approximately one-third the market share. Given the current competitive pressures in the options industry, no exchange can take any of its share of trading for granted. ''Even the most dominant exchanges are subject to severe pressure in the current market environment.''[15] In order for ISE to maintain its market share, it must compete vigorously for order flow. Given the portability of order flow from one exchange to another, a pricing misstep can easily result in loss of order flow, customers and ultimately, revenue.

Moreover, absent certain exclusively licensed monopolistic products, market participants have the ability to send their order to any of the seven options exchanges since nearly all underlying securities whose options are available for trading are offered at each of the seven exchanges. For example, of the more than 2,000 underlying securities whose options are traded on ISE, only 41 products (two percent) are singly-listed on ISE, which collectively represents less than .02 percent of ISE's total contract volume. Of those 41 products, 16 are proprietary ISE index options, all of which are available for licensing by ISE to any other exchange; four are index products that ISE has non-exclusively licensed from index providers and which are available to other exchanges to license; 10 are Exchange Traded Funds that other exchanges have chosen not to list; and the remaining 11 products are equities that either the other exchanges have chosen not to list or are in the process of being de-listed and thus are available for closing only transactions on ISE.

With regards to the 16 proprietary index options, ISE notes that they are traded exclusively on ISE not due to any type of monopoly control, but rather due to lack of interest by other exchanges. ISE further notes that when

[9] *See* Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770 (December 9, 2008) (SR–NYSEArca–2006–21).

[10] *See* Regulation NMS Release, 70 FR at 37566–37567 (addressing differences in distribution standards between core data and non-core data).

[11] NYSE ArcaBook Approval Order at pp. 46–47.

[12] *Id.* at pp. 48–49.

[13] *Id.* at p. 51.

[14] *Id.* at p. 52.

[15] *Id.* at p. 53.

another exchange has shown interest in trading a proprietary ISE product, the Exchange has licensed the trading in that product to other exchanges. For example, NYSE Arca recently signed a license agreement with ISE to list and trade ISE's foreign currency options and that ISE proprietary product is now multiply listed. Although this introduces competition for order flow, ISE believes options that are listed on multiple exchanges provide investors with better markets for execution and lower fees. It also tends to raise overall industry trading volume in the product. We are ready, willing, and able to license our proprietary index products for trading on other exchanges on commercially reasonable terms.

The Exchange further notes that there are a number of alternative ''non-core'' products available to investors. The ISE Depth of Market does not provide a complete picture of the full market for options on a security. Rather, an investor has a number of different information sources to choose from in determining which exchange has the best market. The other exchanges, all of whom can produce their own depth of market products, as well independent distribution of order data by securities firms and data vendors, all pose a competitive threat. Moreover, the Exchange believes that the great majority of investors do not believe that it is necessary to purchase a depth-of-book product.

Currently, of nearly 200 firms that are members of the Exchange, less than 15 percent currently access Depth of Market, which the Exchange is offering at no cost, pending approval of this proposed rule change. The lack of committed members affirms the Exchange's view that Depth of Market, while it may serve a beneficial purpose and would be 'nice to have', does not contain information that is so critical that it would adversely impact trading decisions made by investors. Further, while Depth of Market is available to non-professional or ''retail'' subscribers, the Exchange, despite the low level of subscription by professional subscribers, believes that Depth of Market is primarily a product for market professionals, who have access to other sources of market data and will purchase Depth of Market only if they determine that the perceived benefits outweigh the costs. The Exchange believes the Commission concurs with this sentiment, when it said in the NYSE ArcaBook Approval Order, ''the fact that 95% of the professional users of [Nasdaq] core data choose not to purchase the depth-of-book order data of a major exchange strongly suggests that no exchange has monopoly pricing power for its depth-of-book order data.'' [16]

In sum, the availability of alternative sources of information coupled with the Exchange's critical need to attract order flow impose significant competitive pressure on ISE to act equitably, fairly, and reasonably in setting fees for Depth of Market. The introduction of this new market data offering is, in part, a response to that pressure. For the reasons cited above, the Exchange believes that the Depth of Market offering, including the proposed fees, is equitable, fair, reasonable and not unreasonably discriminatory. In addition, the Exchange believes that no substantial countervailing basis exists to support a finding that the proposed terms and fees for Depth of Market fails to meet the requirement of the Exchange Act.

2. Statutory Basis

The basis under the Exchange Act for this proposed rule change is the requirement under Section 6(b)(4),[17] that an exchange have an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities; with Section 6(b)(5) [18] of the Act, which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest; and with Section 6(b)(8) [19] of the Act, which requires that the rules of a national securities exchange not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange developed and conducted a comprehensive survey of a cross-section of participants in the financial services industry regarding their level of interest in a number of proprietary ''non-core'' market data offerings. Based on the results of that survey, the Exchange developed a business plan to create and offer a number of proprietary market data products targeted to potential user groups, *e.g.,* individual investors, institutional investors, broker-dealers, etc. The Exchange also retained a consultant to validate the business plan and to provide advice on the structure and amount of fees to charge for these products. Based on all of this information, the Exchange established a pricing structure for its Depth of Market offering for professional and non-professional subscribers. The Exchange believes the proposed rule filing provides market participants with added transparency to help improve trading efficiency.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the 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. In particular, the Commission notes that unlike the market data fees approved by the Commission in the NYSE ArcaBook Approval Order, ISE's fees would apply to securities that are traded only on ISE. Would the inclusion of data for such products in the ISE Depth of Market feed undermine a finding, consistent with the approach set forth in the NYSE ArcaBook Approval Order, that ISE was subject to significant competitive forces in setting the terms of its fee proposal for non-core data products? Should the Commission evaluate those singly-listed securities for which another exchange would be required to obtain a license to

[16] *Id.* at p. 64.

[17] 15 U.S.C. 78f(b)(4).

[18] 15 U.S.C. 78f(b)(5).

[19] 15 U.S.C. 78f(b)(8).

trade differently than singly-listed securities that do not require a license? Does it matter whether any such required license must be obtained from ISE or a third party? ISE represents that it would license its proprietary index products to any other exchange on commercially reasonable terms. How should this representation be factored into the Commission's evaluation? What impact, if any, would the trading volume represented by such singly-listed securities have on the analysis? Are there any factors with respect to singly-listed securities that would impact an analysis of whether ISE's proposed fees are 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–ISE–2007–97 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.

All submissions should refer to File Number SR–ISE–2007–97. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2007–97 and should be submitted on or before April 28, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–7836 Filed 4–6–09; 8:45 am]

BILLING CODE 8010–01–P

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59683; File No. SR–NYSE–2009–12]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving a Proposed Rule Change Amending Its Limited Liability Company Operating Agreement and the Bylaws of Its Wholly-Owned Subsidiary NYSE Market, Inc. To Eliminate, in Each Case, a Requirement That Not Less Than Two Members of the Board of Directors Must Qualify as ''Non-Affiliated Directors'' and a Related Requirement That Not Less Than Two Members of the Board of Directors Must Qualify as ''Fair Representation Candidates''

April 1, 2009.

I. Introduction

On February 2, 2009, the New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend: (i) its Second Amended and Restated Operating Agreement (''NYSE Operating Agreement''); and (ii) the bylaws of its wholly-owned subsidiary NYSE Market, Inc. (''NYSE Market'') (''NYSE Market Bylaws''), to eliminate the requirement that not less than two members of the board of directors of NYSE (''NYSE Board'') and of NYSE Market (''NYSE Market Board''), respectively, must qualify as ''non-affiliated directors'' and the requirement that not less than two members of such boards must qualify as ''fair representation candidates'' (as each of those terms is defined in the NYSE Operating Agreement and NYSE Market Bylaws, respectively). The requirements that at least 20% of NYSE Board's directors and NYSE Market Board's directors must be ''non-affiliated directors'' and ''fair representation candidates'' would remain in place. The proposed rule change was published for comment in the **Federal Register** on February 20, 2009.[3] The Commission received no comments on the proposal.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Description of the Proposal

The Exchange proposes that its parent company, NYSE Group, Inc., as the sole member of the Exchange, amend the NYSE Operating Agreement to eliminate the requirements that: (i) not less than two members of NYSE Board must be persons who are not members of the board of directors of NYSE Euronext (''NYSE Euronext Board''), and who qualify as independent under the independence policy of the NYSE Euronext Board (''NYSE non-affiliated directors''); and (ii) not less than two members of the NYSE Board must be ''fair representation candidates'' (as defined in the NYSE Operating Agreement). In each case, however, the current requirements that a minimum of 20% of NYSE Board's directors must be NYSE non-affiliated directors and that a minimum of 20% of NYSE Board's directors must be fair representation candidates would continue to apply.[4]

The Exchange also proposes that the Exchange, as the sole stockholder of NYSE Market, amend the NYSE Market Bylaws to eliminate the requirements that: (i) not less than two members of the NYSE Market Board must be persons who are not members of the NYSE Euronext Board, although such directors need not be independent (''NYSE Market non-affiliated directors''); and (ii) not less than two members of the NYSE Market Board must be ''fair representation candidates'' (as defined in the NYSE Market Bylaws). In each case, however, the current requirements that a minimum of 20% of NYSE Market Board's directors must be NYSE Market non-affiliated directors and that a minimum of 20% of NYSE Market Board's directors must be fair representation candidates would continue to apply.[5]

The Exchange also proposes to specify in the NYSE Operating Agreement and the NYSE Market Bylaws that, for purposes of calculating the minimum number of non-affiliated directors and

[3] *See* Securities Exchange Act Release No. 59400 (February 12, 2009), 74 FR 7945.

[4] The Exchange has represented that fair representation candidates on the NYSE Board qualify as NYSE non-affiliated directors.

[5] The Exchange has represented that fair representation candidates on the NYSE Market Board qualify as NYSE Market non-affiliated directors.

fair representation candidates for each the NYSE Board and the NYSE Market Board, if the number that is equal to 20% of the total number of directors on their respective boards is not a whole number, such number would be rounded up to the next whole number.[6]

The Exchange has stated that the practical effect of the proposed rule change would be to enable the size of both the NYSE Board and the NYSE Market Board to be reduced from ten members to five members. The Exchange has represented that the initial implementation of the proposed changes immediately following approval by the Commission would be accomplished through the voluntary resignation of five of the ten directors from the NYSE Board and NYSE Market Board, respectively, including one ''fair representation'' director from each of the boards, in connection with a reduction in the size of each board to five directors. The Exchange's proposal would not revise the current fair representation candidate selection and petition process for, or the appointment or election of a fair representation candidate to, the NYSE Board and the NYSE Market Board.[7]

The Exchange has stated that its proposal is consistent with the governance structures of other national securities exchanges that have been approved by the Commission. The Exchange has noted, for example, that The NASDAQ Stock Market LLC (''Nasdaq'') has a 20% fair representation requirement, without specifying a minimum number of fair representation directors,[8] and that Nasdaq has complete discretion as to the number of board members.[9] The Exchange also has noted that in the approval order relating to the acquisition of the American Stock Exchange LLC by NYSE Euronext, the Commission similarly approved a discretionary board size (noting that Amex intended to have a five-member board), a 20% fair representation requirement, and no minimum number of fair representation directors.[10] The Exchange indicated that, by eliminating, for itself and NYSE Market, the current requirements for a minimum of two non-affiliated directors and two fair representation candidates, it will be able to improve administrative efficiency and effectiveness by operating with a smaller number of directors, while continuing to fulfill its statutory obligations regarding the fair representation of its members.

III. Discussion and Commission Findings

The Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[11] In particular, the Commission finds that the proposal is consistent with the requirements of Section 6(b)(3) of the Act, which provides that the rules of an exchange must assure a fair representation of its members in the selection of its directors and administration of its affairs and provide that one or more directors shall be representative of issues and investors and not be associated with a member of the exchange, broker, or dealer.[12]

The fair representation requirement in Section 6(b)(3) of the Act is intended to give members a voice in the selection of the exchange's directors and the administration of its affairs. Moreover, the Section 6(b)(3) requirement helps to ensure that members are protected from unfair, unfettered actions by an exchange and that, in general, an exchange is administered in a way that is equitable to all those who trade on its market or through its facilities. The Commission notes that the requirement that at least 20% of the directors on the NYSE and NYSE Market boards be non-affiliated directors and fair representation candidates is designed to ensure the fair representation of NYSE members on the NYSE Board and the NYSE Market Board.[13] The Commission notes that, while the proposal eliminates the requirement regarding a specific minimum number of non-affiliated directors and fair representation candidates on the boards, it does not alter the minimum 20% requirement for non-affiliated directors or fair representation candidates or the process by which members can directly petition and vote for representatives on the boards. Moreover, the proposal adds to the NYSE Operating Agreement and NYSE Market Bylaws a provision that: whenever 20% of the board would not result in a whole number, such number would in all cases be rounded up to the nearest whole number, thus ensuring that the non-affiliated directors and fair representation candidates never constitute less than 20% of the board. The Commission further notes that the proposed changes to the NYSE Operating Agreement and NYSE Market Bylaws are consistent with previous proposals approved by the Commission for other exchanges, which also do not specify the number of fair representation directors and which allow discretion as to the size of their boards.[14] The Commission therefore finds that the Exchange's proposal is consistent with Section 6(b)(3) of the Act.[15]

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[16] that the proposed rule change (SR–NYSE–2009–12) is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–7834 Filed 4–6–09; 8:45 am]

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[6] *See* Section 2.03(a)(i) and (iii) of the NYSE Operating Agreement and Article III, Section 1(A) and (B) of the NYSE Market Bylaws.

[7] As defined in the NYSE Operating Agreement, fair representation candidates are NYSE Board members that are determined by member organizations of the Exchange through a specified petition process (''Petition Candidates'') or, in the absence of Petition Candidates, candidates recommended jointly by the Director Candidate Recommendation Committee (''DCRC'') of NYSE Market and of NYSE Regulation, Inc. In the case of NYSE Market, fair representation candidates on the Market Board are determined similarly except that, in the absence of Petition Candidates, they are individuals recommended by the DCRC of NYSE Market.

[8] *See* Article I, paragraph (q) of the By-Laws of the NASDAQ Stock Market LLC, which states that, '' 'Membership Representative Director' means a Director who has been elected or appointed after having been nominated by the Member Nominating Committee or by a Nasdaq Member pursuant to these By-Laws.''

[9] *See* Section 9(a) of the NASDAQ Stock Market LLC Agreement.

[10] *See* Securities Exchange Act Release No. 58673 (September 29, 2008), 73 FR 57707 (October 3, 2008) (SR–Amex–2008–62).

[11] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78f(b)(3).

[13] *See supra* notes 4 and 5.

[14] *See, e.g.,* Section 9(a) of the NASDAQ Stock Market LLC Agreement and Article IV, Section 4–1 of the NASDAQ OMX PHLX, Inc. By-Laws.

[15] 15 U.S.C. 78f(b)(3).

[16] 15 U.S.C. 78s(b)(2).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59677; File No. SR–NYSE–2009–38]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Revise Transaction Fees for the New York Block Exchange

April 1, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

(''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 27, 2009, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''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 modify the transaction fees for the New York Block Exchange℠, with effect from April 1, 2009. The text of the proposed rule change is available at NYSE's principal office, the Commission's Public Reference Room, and *http://www.nyse.com.*

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 NYSE 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 increase the charge per share for all NYBX transactions from $.0025 per share to $.0030 per share, with effect from April 1, 2009. The NYBX is an electronic facility of the Exchange that provides for the continuous matching and execution of securities listed on the NYSE of all non-displayed orders with the aggregate of all displayed and non-displayed orders of the NYSE Display Book (''Display Book'' or ''DBK'') while also considering protected quotations of all automated trading centers (''away markets''). The proposed transactional fee of $.0030 per executed share will be charged to both the buyer(s) and seller(s) of the executed shares. The fee will be charged for all executions of NYBX orders, including those NYBX executions that take place in the DBK or in away markets. Only NYSE members, member organizations and sponsoring member organizations will be charged this transaction fee. Transaction fees for executions of orders entered by sponsored participants will be charged to the sponsoring member organization. Member organizations will not pay any additional transactional fee for the execution of NYBX orders to the extent that an NYBX order or a portion thereof may be executed in the DBK or is routed to an away market.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[3] in general, and furthers the objectives of Section 6(b)(4),[4] in particular, in that it is designed provide for the equitable allocation of reasonable dues, fees and other charges among its members 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

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[5] of the Act and Rule 19b–4(f)(2)[6] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2009–38 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–NYSE–2009–38. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–NYSE–2009–38 and should be submitted on or before April 28, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–7832 Filed 4–6–09; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78f.

[4] 15 U.S.C. 78f(b)(4).

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(f)(2).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59660; File No. SR–NYSEAmex–2009–03]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Amex LLC Deleting Rule 936C, Cancellation and Adjustment of Index Option Transactions

March 31, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on March 20, 2009, NYSE Amex LLC (''NYSE Amex'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to delete Rule 936C governing the Cancellation and Adjustment of Index Options Contracts. The text of the proposed rule change is attached as Exhibit 5 to the 19b–4 form. A copy of this filing is available on the Exchange's Web site at *http://www.nyse.com*, at the Exchange's principal office and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange recently received approval of SR–NYSEALTR–2008–14 ,[5] which proposed new Rule Section 900NY for the trading of options contracts, and also filed as immediately effective SR–NYSEALTR–2009–17 ,[6] which deleted certain rules that were no longer relevant or were superseded by Rules in Section 900NY.

SR–NYSEALTR–2009–17 inadvertently omitted deleting Rule 936C, Cancellation and Adjustment of Index Options Contracts, which has been replaced by Rule 975NY, Obvious Errors and Catastrophic Errors. Rule 975NY governs Obvious Errors and Catastrophic Errors in all options products, including options on indexes, exchange-traded funds, and trust issued receipts.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) [7] of the Securities Exchange Act of 1934 (the ''Act''), in general, and furthers the objectives of Section 6(b)(5) [8] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and Rule 19b–4(f)(6) thereunder.[10]

The Exchange has requested that the Commission waive the 30-day operative delay to the extent that such action is necessary to clarify the applicable rule in cases of Obvious Errors and Catastrophic Errors involving options on indexes, exchange-traded funds, and trust issued receipts. The Commission hereby grants the Exchange's request.[11] The Commission believes that such action is consistent with the protection of investors and the public interest because the Exchange is merely deleting an obsolete rule.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

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

[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).

[5] *See* Exchange Act Release No. 34–59472 (February 27, 2009), 74 FR 9843.

[6] *See* Exchange Act Release No. 34–59454 (February 25, 2009), 74 FR 9461.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the self-regulatory organization to submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Number SR–NYSEAmex–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–NYSEAmex–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 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–NYSEAmex–2009–03 and should be submitted on or before April 28, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–7831 Filed 4–6–09; 8:45 am]

BILLING CODE 8010–01–P

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59678; File No. SR–NYSEArca–2009–14]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Accelerated Approval of a Proposed Rule Change Relating to the Leverage Factor Applicable to the MacroShares Major Metro Housing Trusts

April 1, 2009.

On March 3, 2009, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange''), through its wholly owned subsidiary, NYSE Arca Equities, Inc. (''NYSE Arca Equities''), filed with the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to modify the representation made in SR–NYSEArca–2008–92[3] regarding the leverage factor applicable to the MacroShares Major Metro Housing Up Trust (''Up Trust'') and the MacroShares Major Metro Housing Down Trust (''Down Trust'') (collectively, the ''Trusts'') and, specifically, to indicate that the leverage factor to be applied will be 3 rather than 2.[4] The proposed rule change was published in the **Federal Register** on March 16, 2009 for a 15-day comment period.[5] The Commission received no comments on the proposal. This order grants approval to the proposed rule change on an accelerated basis.

I. Description of the Proposal

The Commission previously approved, pursuant to Section 19(b)(2) of the Act, the Exchange's proposal to list and trade the Up MacroShares and the Down MacroShares as Paired Trust Shares under NYSE Arca Equities Rule 8.400.[6]

As described in the Approval Order and the Initial Notice, the Up Trust and the Down Trust intend to issue Up MacroShares and Down MacroShares, respectively, on a continuous basis. The Up MacroShares and the Down MacroShares represent undivided beneficial interests in the Up Trust and the Down Trust, respectively.

The Trusts will make quarterly distributions and a final distribution that is based on the value of the S&P/Case-Shiller Composite-10 Home Price Index (''Index''), as well as on prevailing interest rates on U.S. Treasury obligations. The last published value of the S&P/Case-Shiller Composite-10 Home Price Index is referred to as the ''Reference Value of the Index'' or ''Reference Value'', as discussed in the Initial Notice.[7]

If the Reference Value rises above its specified starting level, the Up Trust's Underlying Value (as described in the Initial Notice) will increase to include all of its assets plus a portion of the assets of the paired Down Trust. This portion of assets due from the Down Trust will be multiplied by a specified ''leverage factor.'' Conversely, if the level of the Reference Value of the Index falls below its starting level on and after the closing date, the Up Trust's Underlying Value will decrease, because a portion of its assets will be included in the Underlying Value of its paired Down Trust, such portion being multiplied by the leverage factor.

The Initial Notice stated that the leverage factor would be 2, as initially described in the Registration Statements. The Trusts now intend to utilize a leverage factor of 3.[8] The effect of this will be to triple any increase or decrease in the Underlying Value of the Up Trust or the Down Trust, depending upon whether there is an increase or decrease in the Reference Value of the Index.

Additional information relating to the Trusts and Shares is available in the Registration Statements, the Notice, the Initial Notice and the Approval Order.[9]

II. Discussion and Commission's Findings

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 58704 (October 1, 2008), 73 FR 59026 (October 8, 2008) (order approving listing and trading on the Exchange of the Trusts (''Approval Order'')); *See also* Securities Exchange Act Release No. 58469 (September 5, 2008), 73 FR 53306 (September 15, 2008) (SR–NYSEArca–2008–92) (notice of proposed rule change to list and trade the Trusts on the Exchange) (''Initial Notice''). The Shares are being offered by the Trusts under the Securities Act of 1933, 15 U.S.C. 77a. On February 17, 2009, the depositor filed with the Commission preliminary Registration Statements on Form S–1 (Amendment No. 3) for the Up MacroShares (File No. 333–151522) and for the Down MacroShares (File No. 333–151523) (''Registration Statements'').

[4] Shares of the Up Trust and the Down Trust are referred to collectively as ''Shares.''

[5] *See* Securities Exchange Act Release No. 59542 (March 9, 2009), 74 FR 11167 (''Notice'').

[6] *See* Approval Order, *supra* note 3.

[7] The Reference Value of the Index is the Reference Price for purposes of NYSE Arca Equities Rule 8.400.

[8] With the exception of the proposed change to the leverage factor, and a change in the distribution date from a date in 2018 to a date in 2014, the Exchange states that all representations made by the Exchange in the Initial Notice continue to apply. *See* Notice, *supra* note 5, 74 FR at 11168, n. 8.

[9] *See supra* notes 3 and 5.

requirements of Section 6 of the Act[10] and the rules and regulations thereunder applicable to a national securities exchange.[11] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[12] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transaction in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission notes that it has previously approved the listing and trading of the Trusts under NYSE Arca Equities Rule 8.400.[13] The Commission also notes that the Exchange has represented that, with the exception of the change to the leverage factor applicable to the Trusts, and a change to the distribution date, all prior representations made in the Initial Notice will continue to apply.[14] This approval order is based on the Exchange's representations.

The Commission believes that the increase from 2 to 3 of the leverage factor applicable to the Up MacroShares and the Down MacroShares, respectively, is reasonable to facilitate the listing and trading of the Shares. Additionally, the Commission believes that the increase of the leverage factor should help to increase competition among market participants and benefit investors. The Commission also notes that it has previously approved the listing and trading of other exchange-traded products with up to 300% leverage.[15]

[10] 15 U.S.C. 78f.

[11] In approving this proposed rule change the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78f(b)(5).

[13] *See* Approval Order, *supra* note 3.

[14] *See supra* notes 5 and 8.

[15] *See e.g.,* Securities Exchange Act Release Nos. 58825 (October 21, 2008), 73 FR 63756 (October 27, 2008) (SR–NYSEArca–2008–89) (approving amendment to Rule 5.2(j)(3) to permit listing of Investment Company Units where the issuer seeks to provide investment results, before fees and expenses, up to −300% of the percentage performance on a given day of a particular equity index); 59332 (January 30, 2009), 74 FR 6338 (February 2, 2009) (SR–NYSEArca–2008–136) (approving amendment to NYSE Arca Equities Rule 5.2(j)(6) to permit a loss or negative payment at maturity with respect to an issue of Index-Linked Securities to be accelerated by a multiple up to three times the performance of an underlying Reference Asset, as defined in NYSE Arca Equities Rule 5.2(j)(6)).

III. Accelerated Approval

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[16] for approving the proposal prior to the thirtieth day after the date of publication of the Notice in the **Federal Register**. The Commission has received no comments regarding the proposed rule change, and the Commission finds that the proposed rule change does not raise any novel regulatory issues. Additionally, the Commission believes that accelerating approval of this proposal should benefit the market by making available to investors, without undue delay, additional products in the market for Paired Trust Shares.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[17] that the proposed rule change (SR–NYSEArca–2009–14) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–7775 Filed 4–6–09; 8:45 am]

BILLING CODE 8010–01–P

[16] 15 U.S.C. 78s(b)(2).

[17] *Id.*

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59665; File No. SR–NYSEAmex–2009–05]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Amex LLC Amending Equities Rule 48.10 To Extend the Temporary Provisions of the Rule Relating to the Ability of the Exchange To Declare an Extreme Market Volatility Condition and Suspend Certain Exchange Requirements Relating to the Closing of Securities at the Exchange

March 31, 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 March 23, 2009, NYSE Amex LLC[4] (the ''Exchange'' or ''NYSE Amex'') filed with the Securities and Exchange Commission (the ''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[5] and Rule 19b–4(f)(6) thereunder,[6] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* e-mail from Clare F. Saperstein, Managing Director, Office of General Counsel, NYSE Regulation, Inc., to David Liu, Assistant Director, Commission, dated March 31, 2009.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Equities Rule 48.10 to extend the temporary provisions of the rule relating to the ability of the Exchange to declare an extreme market volatility condition and suspend certain Exchange requirements relating to the closing of securities at the Exchange. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NYSE Amex Equities Rule 48.10 to temporarily extend the provisions of the rule relating to declaring an extreme market volatility condition at the close.[7]

On November 26, 2008, NYSE Amex filed a rule proposal to conform its rules to those of the New York Stock

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(f)(6).

[7] *See* SR–NYSE–2009–35 (formally submitted on March 23, 2009).

Exchange LLC (''NYSE'').[8] Among the rules amended in that filing was Rule 48, which was previously amended by the NYSE. On October 2, 2008, the NYSE filed for immediate effectiveness to amend NYSE Rule 48 to provide the NYSE with the ability to suspend certain rules at the close when extremely high market volatility could negatively affect the ability to ensure a fair and orderly close.[9] The NYSE amended Rule 48 on an immediate effectiveness basis in order to respond swiftly to market conditions at that time. Those amendments were adopted on a temporary basis with the understanding that if the NYSE would like to adopt the closing provisions on a permanent basis, such proposal must be filed for notice and comment.

The Exchange has filed a rule proposal to amend NYSE Amex Equities Rules 48 and 123C to delete from Rule 48 the provisions relating to declaring an extreme market volatility condition at the close and add them in modified form to Rule 123C (the ''Rule 48/123C filing'').[10] That rule proposal has been filed under Section 19(b)(2) of the Securities Exchange Act of 1934 (the ''Act'')[11] and has been noticed for public comment. The comment period for that filing ends on March 31, 2009. In anticipation of the Rule 48/123C filing, the Exchange previously amended Rule 48.10 to extend from December 31, 2009 to March 27, 2009 the temporary time period that the Rule 48 at-the-close provisions would be in effect.[12] The Exchange now proposes to temporarily extend the NYSE Amex Equities Rule 48 at-the-close provisions pending the outcome of the Rule 48/123C filing. Accordingly, the Exchange proposes to amend Rule 48.10 to provide that the provisions of that rule relating to declaring an extreme market volatility condition at the close will end April 30, 2009.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[13] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, this rule proposal will permit the temporary provisions of Rule 48 to continue without interruption pending the outcome of the Rule 48/123C filing.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change:

(i) Does not significantly affect the protection of investors or the public interest;

(ii) Does not impose any significant burden on competition; and

(iii) By its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[14] and Rule 19b–4(f)(6) thereunder.[15]

The Exchange has requested that the Commission waive the 30-day operative delay in order to permit the temporary provisions of NYSE Amex Equities Rule 48 to continue without interruption pending the outcome of the Rule 48/123C filing. The Commission believes such waiver is consistent with the protection of investors and the public interest.[16] Accordingly, the Commission designates the proposed rule change operative upon filing with the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the 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–NYSEAmex–2009–05 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAmex–2009–05. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of 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;

[8] *See* Securities Exchange Act Release No. 59022 (Nov. 26, 2008), 73 FR 73683 (Dec. 3, 2008) (SR–NYSEALTR–2008–10).

[9] *See* SEC Release No. 58743 (Oct. 7, 2008), 73 FR 60742 (Oct. 14, 2008) (SR–NYSE–2008–102).

[10] *See* SEC Release No. 59488 (Mar. 3, 2009), 74 FR 10334 (Mar. 10, 2009) (SR–NYSEALTR–2009–15). The NYSE has filed a companion rule filing. *See* SEC Release No. 59489 (Mar. 3, 2009), 74 FR 10330 (Mar. 10, 2009) (SR–NYSE–2009–18).

[11] 15 U.S.C. 78s(b)(2).

[12] *See* SEC Release No. 59169 (Dec. 29, 2008), 74 FR 485 (Jan. 6, 2009) (SR–NYSEALTR–2008–18). The NYSE also filed a companion rule filing. *See* SEC Release No. 59168 (Dec. 29, 2008), 74 FR 483 (Jan. 6, 2009) (SR–NYSE–2008–139).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the self-regulatory organization to submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[16] For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–NYSEAmex–2009–05 and should be submitted on or before April 28, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–7732 Filed 4–6–09; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59672; File No. SR–FINRA–2009–013]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change To Amend the Tolling Provisions in Rules 12206 and 13206 of the Codes of Arbitration Procedure for Customer and Industry Disputes

April 1, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that Financial Industry Regulatory Authority, Inc. (''FINRA'') (f/k/a National Association of Securities Dealers, Inc. (''NASD'')) filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') on March 11, 2009, the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by FINRA. 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

FINRA Dispute Resolution is proposing to amend the tolling provisions in Rules 12206 and 13206 of the Code of Arbitration Procedure for Customer Disputes (''Customer Code'') and for Industry Disputes (''Industry Code''), respectively, to clarify that the rules toll the applicable statutes of limitation when a person files an arbitration claim with FINRA.

Below is the text of the proposed rule change. Proposed deletions are in brackets.

* * * * *

12206. Time Limits

(a)–(b) No change.

(c) Effect of Rule on Time Limits for Filing Claim in Court

The rule does not extend applicable statutes of limitations; nor shall the six-year time limit on the submission of claims apply to any claim that is directed to arbitration by a court of competent jurisdiction upon request of a member or associated person. However, [where permitted by applicable law,] when a claimant files a statement of claim in arbitration, any time limits for the filing of the claim in court will be tolled while FINRA retains jurisdiction of the claim.

(d) No change.

* * * * *

13206. Time Limits

(a)–(b) No change.

(c) Effect of Rule on Time Limits for Filing Claim in Court

The rule does not extend applicable statutes of limitations; nor shall the six-year time limit on the submission of claims apply to any claim that is directed to arbitration by a court of competent jurisdiction upon request of a member or associated person. However, [where permitted by applicable law,] when a claimant files a statement of claim in arbitration, any time limits for the filing of the claim in court will be tolled while FINRA retains jurisdiction of the claim.

(d) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, Rule 12206, the ''eligibility rule,'' provides that, ''no claim shall be eligible for submission to arbitration under the Code where six years have elapsed from the occurrence or event giving rise to the claim.''[3] The eligibility rule does not extend applicable statutes of limitation, but Rule 12206(c) does provide that, ''where permitted by applicable law, when a claimant files a statement of claim in arbitration, any time limits for the filing of the claim in court will be tolled while FINRA retains jurisdiction of the claim.''[4] This means that, where permitted by applicable law, state statutes of limitation will be tolled (*i.e.*, temporarily suspended) when a person files an arbitration claim with FINRA.

For many years, FINRA has interpreted the rule to mean that any applicable statutes of limitation would be tolled in all cases when a person files an arbitration claim with FINRA. In *Friedman* v. *Wheat First Securities, Inc.*, however, the court found that the phrase ''where permitted by applicable law,'' means that State or Federal law, as applicable, must permit tolling expressly, or the period will not be tolled.[5] In light of the court's interpretation of the phrase and the negative effect it could have on investors' arbitration claims, FINRA is proposing to remove the phrase, ''where permitted by applicable law,'' from Rules 12206(c) and 13206(c) to make tolling automatic as part of the arbitration agreement.

The *Friedman* court granted the defendant's request to dismiss the plaintiff's complaint on statute of limitations grounds. In arguing against dismissal, the plaintiff sought to rely on old Rule 10307(a)[6] of the Code of

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[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] FINRA describes the eligibility rule using the rule number from the Customer Code for simplicity. However, the proposal also applies to the identical eligibility rule of the Industry Code. *See* Rule 13206.

[4] *See* also Rule 13206(c) of the Industry Code.

[5] 64 F. Supp. 2d 338 (S.D.N.Y. 1999). The case involved claims under Section 10(b) of the Securities Exchange Act of 1934.

[6] Rule 10307(a) (Tolling of Time Limitation(s) for the Institution of Legal Proceedings and Extension of Time Limitation(s) for Submission to Arbitration) states in relevant part that:

Where permitted by applicable law, the time limitations which would otherwise run or accrue for the institution of legal proceedings shall be tolled where a duly executed Submission Agreement is filed by the CLaimant(s). The tolling shall continue for such period as the Association shall retain jurisdiction upon the matter submitted.

Arbitration Procedure, which was updated and is currently designated as Rules 12206(c) and 13206(c), to support his position that filing an arbitration claim tolls the applicable statute of limitations.[7] The court determined, however, that the language of old Rule 10307(a) does not toll the statute of limitations unless such tolling is ''permitted by applicable law.''[8] After further analysis, the court found that no Federal or State statute tolled the applicable statute of limitations and granted the defendant's dismissal request.[9]

Other courts have reached the same conclusion in interpreting old Rule 10307(a) and the phrase ''where permitted by law.'' In *Individual Securities* v. *Ross*,[10] the plaintiff, in appealing a judgment of a New York district court that dismissed the complaint as time-barred, claimed that the statute of limitations was tolled while his matter was in arbitration with then-NASD.[11] The court cited old Rule 10307(a) and noted that the ''where permitted by law'' language referred to the applicable law in New York, which prevented tolling of the limitations period.[12] In *Rampersad* v. *Deutsche Bank Securities, Inc.*,[13] the court, citing *Friedman*, determined that, used in a similar context, the phrase meant that Federal law, not State law, governs the availability of tolling the limitations period in a Section 10(b) cause of action.[14]

FINRA is concerned that courts may begin citing this interpretation to dismiss claims filed in court, as would otherwise be permitted under the eligibility rule.[15] FINRA does not believe this outcome would be consistent with the original intent of the tolling provision or of amendments to the eligibility rule that allow customers to take their claims to court if their claims are dismissed in arbitration on eligibility grounds.[16] Rather, FINRA believes that, in such a situation, the rule should be read to provide that a firm or associated person has implicitly agreed to suspend any statute of limitations defense for the time period that the matter was in FINRA's jurisdiction. Amending the eligibility rule, as proposed, would make this clear.

Moreover, FINRA is concerned that the *Friedman* interpretation could limit or foreclose customers' access to other judicial forums to address their disputes, which would be an unfair result. Most brokerage firms require customers to arbitrate their disputes, a process that can take more than a year. Customers may be disadvantaged in a subsequent court proceeding if the panel dismisses the arbitration case on eligibility grounds and the statute of limitations is not tolled for the period of time that the customers were in arbitration. In addition to being an unfair result, FINRA believes this would undermine the intent of the eligibility rule, which gives customers the option of taking their claims to court when a case is dismissed on eligibility grounds.

Therefore, FINRA is proposing to delete the phrase ''where permitted by applicable law'' from Rules 12206(c) and 13206(c). FINRA notes that the *Friedman* interpretation suggests that, but for the phrase, the rule would be read as an explicit agreement between the parties to toll the statute of limitations period.[17] FINRA believes that the proposed rule change would leave the parties in the same position in court as they were at the start of the arbitration with regard to any statutes of limitation: the time period before the claim was filed in arbitration would not be extended by the proposed changes, but applicable statutes of limitation would not run while the matter was in arbitration.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[18] which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The proposed rule change is consistent with FINRA's statutory obligations under the Act to protect investors and the public interest because the proposal would preserve fairness in the arbitration process by ensuring that investors maintain their right to have their claims heard in court by tolling the applicable statutes of limitation while the dispute is in arbitration.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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 by FINRA.

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.

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[7] 64 F. Supp. 2d at 343.

[8] *Id.*

[9] *Id.* at 347.

[10] 1998 U.S. App. Lexis 12618.

[11] On July 26, 2007, the Commission approved a proposed rule change filed by NASD to amend NASD's Certificate of Incorporation to reflect its name change to FINRA in connection with the consolidation of the member firm regulatory functions of NASD and NYSE Regulation, Inc. *See* Securities Exchange Act Rel. No. 56146 (July 26, 2007), 72 FR 42190 (August 1, 2007) (SR–NASD–2007–053).

[12] *Id.*

[13] 2004 U.S. Dist. Lexis 5031. The case also involved claims under Section 10(b) of the Securities Exchange Act of 1934.

[14] *Id.* In this case, the plaintiff filed an arbitration claim against the defendants at the New York Stock Exchange, Inc. (''NYSE''). The plaintiff argued that the limitations period should have been tolled under New York law for the period during which the arbitration was pending, and cited NYSE Rule 606(a), which is similar to old Rule 10307(a), and states in pertinent part:

Where permitted by applicable law, the time limitation(s) which would otherwise run or accrue for the institution of legal proceedings shall be tolled when a duly executed Submission Agreement is filed by the Claimant(s).

[15] The rule states that ''dismissal of a claim under this rule does not prohibit a party from pursuing the claim in court. By filing a motion to dismiss a claim under this rule, the moving party agrees that if the panel dismisses a claim under this rule, the non-moving party may withdraw any remaining related claims without prejudice and may pursue all of the claims in court.'' *See also* Rule 13206(b).

[16] *See* Securities Exchange Act Rel. No. 50714 (November 22, 2004), 69 FR 69971 (December 1, 2004) (SR–NASD–2001–101).

[17] *Friedman*, 64 F. Supp. 2d 338, 343 n.4 (1999). The court indicates that it likely would accept the amended language as representing an agreement of the parties:

The precise meaning of Rule 10307(a) is not entirely clear. If the phrase ''where permitted by applicable law'' did not precede the remainder of the paragraph, the rule would simply be read as an explicit agreement between the parties to toll the limitations period, regardless of what the applicable State or Federal tolling principles provide. However, by including the phrase the drafters seemed to limit tolling to situations in which tolling is expressly permitted by applicable law, thereby making an explicit agreement between the parties unnecessary.

[18] 15 U.S.C. 78o–3(b)(6).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–FINRA–2009–013 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2009–013. 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. 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 the File Number SR–FINRA–2009–013 and should be submitted on or before April 28, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–7773 Filed 4–6–09; 8:45 am]

BILLING CODE 8010–01–P

[19] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law (Pub. L.) 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions and extensions of OMB-approved Information Collections and a new collection.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize the burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, e-mail, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and the SSA Reports Clearance Officer to the addresses or fax numbers listed below.

(OMB), Office of Management and Budget. *Attn:* Desk Officer for SSA. *Fax:* 202–395–6974. *E-mail Address: OIRA_Submission@omb.eop.gov*.

(SSA), Social Security Administration, DCBFM, *Attn:* Reports Clearance Officer, 1332 Annex Building, 6401 Security Blvd., Baltimore, MD 21235. *Fax:* 410–965–6400. *E-mail Address: OPLM.RCO@ssa.gov.*

I. The information collection below is pending at SSA. SSA will submit it to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than June 8, 2009. Individuals can obtain copies of the collection instrument by calling the SSA Reports Clearance Officer at 410–965–3758 or by writing to the e-mail address listed above.

1. Statement of Claimant or Other Person—20 CFR 404.702 & 416.570—0960–0045

SSA uses the SSA–795 to obtain information from claimants or other persons having knowledge of facts in connection with claims for Supplemental Security Income (SSI) or Social Security benefits when there is no standard form to collect the needed information. SSA then uses the information to process claims for benefits or for ongoing issues related to the above programs. The respondents are applicants/recipients of SSI or Social Security benefits, or others who are in a position to provide information pertinent to the claim(s).

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 305,500.

Frequency of Response: 1.

Average Burden per Response: 15 minutes.

Estimated Annual Burden: 76,375 hours.

2. Statement of Employer—20 CFR 404.801–404.803—0960–0030

SSA uses Form SSA–7011–F4 to substantiate allegations of wages paid to workers when those wages do not appear in SSA's records of earnings and the worker does not have proof of those earnings. SSA uses the information received on this form to process claims for Social Security benefits and to resolve discrepancies in the individual's Social Security earnings record. We only send Form SSA–7011–F4 to employers if we deem it necessary; in many situations, we are able to locate the earnings information within our records without having to contact the employer. The respondents are employers who can verify wage allegations made by wage earners.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 925,000.

Frequency of Response: 1.

Average Burden per Response: 20 minutes.

Estimated Annual Burden: 308,333 hours.

3. Statement of Self-Employment Income—20 CFR 404.101, 404.110, 404.1096(a)–(d)—0960–0046

SSA collects the information on Form SSA–766 to expedite the payment of benefits to an individual who is self-employed and who is establishing insured status. The form elicits the information necessary to determine if the individual will have the minimum amount of self-employment income for quarters of coverage. Respondents are

self-employed individuals who may be eligible for Social Security benefits.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 2,500.

Frequency of Response: 1.

Average Burden per Response: 5 minutes.

Estimated Annual Burden: 208 hours.

4. Certification by Religious Group—20 CFR 404.1075—0960–0093

SSA uses Form SSA–1458 to determine whether a religious group meets the qualifications set out in Section 1402(g) of the Internal Revenue Code, which exempts members of certain religious groups and sects from payment of Self-Employment Contribution Act taxes. The respondents are spokespersons for religious groups or sects.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 180.

Frequency of Response: 1.

Average Burden per Response: 15 minutes.

Estimated Annual Burden: 45 hours.

5. Claim for Amounts Due in the Case of a Deceased Beneficiary—20 CFR 404.503(b)—0960–0101

A completed SSA–1724 ensures proper payment of an underpayment due a deceased beneficiary. It is required when there is insufficient information in the file to identify the person(s) entitled to the underpayment, or the person's address. Generally, SSA collects the information when a surviving widow(er) is not already entitled to a monthly benefit on the same earnings record, or is not filing for a lump-sum death payment as a living-with spouse. The respondents are applicants for underpayments owed to deceased beneficiaries.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 450,000.

Frequency of Response: 1.

Average Burden per Response: 10 minutes.

Estimated Annual Burden: 75,000 hours.

6. Instructions for Completion of Federal Assistance Application—0960–0184

SSA uses information from Form SSA–BK–96 in selecting grant proposals for funding based on their technical merits. This information assists the agency in evaluating the soundness of the design of the proposed activities, the possibility of obtaining productive results, the adequacy of resources to conduct the activities, and the relationship to other similar activities of the respondents. The respondents are State and local governments, state-designated protection and advocacy groups, colleges and universities, and profit and nonprofit private organizations.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 400.

Frequency of Response: 2.

Average Burden per Response: 14 hours.

Estimated Annual Burden: 11,200 hours.

7. Request for Deceased Individual's Social Security Record—20 CFR 402.130—0960–0665

SSA uses the Form SSA–711 to process requests from the public for a microprint of the SS–5, Application for Social Security Card, for a deceased individual. Respondents are members of the public who are requesting deceased individuals' Social Security records.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 50,000.

Frequency of Response: 1.

Average Burden per Response: 7 minutes.

Estimated Annual Burden: 5,833 hours.

8. Electronic Records Express—0960–0753

Electronic Records Express (ERE) is a Web-based SSA program that allows medical providers to submit disability claimant data electronically to SSA. Both medical providers and other third parties with connections to disability applicants/recipients can use this system. This information collection request (ICR) includes the registration process for becoming a certified ERE user. We are expanding this ICR to include increased functionality for ERE by giving medical providers the ability to submit invoices electronically. The respondents are medical providers who evaluate or treat disability claimants/recipients and are ERE users.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 17,689.

Frequency of Response: 1.

Average Burden per Response: 10 minutes.

Estimated Annual Burden: 2,948 hours.

II. SSA has submitted the information collections listed below to OMB for clearance. Your comments on the information collections would be most useful if OMB and SSA receive them within 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than May 7, 2009. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Officer at 410–965–3758 or by writing to the above listed address.

1. Physician's/Medical Officer's Statement of Patient's Capability To Manage Benefits—20 CFR 404.2015 and 416.615—0960–0024

SSA uses the information collected on Form SSA–787 to determine an individual's capability to handle his or her own SSI or Social Security benefits. This information assists SSA in determining the need for a representative payee. The respondents are physicians of the beneficiaries' or medical officers of the institution where the beneficiaries reside.

Note: This is a correction notice. SSA published this information collection as an extension on January 15, 2009 at 74 FR 2642. Since we are revising the Privacy Act Statement, this is now a revision of an OMB-approved information collection.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 24,000.

Frequency of Response: 1.

Average Burden per Response: 15 minutes.

Estimated Annual Burden: 6,000 hours.

2. QuickStart Automated Enrollment System—31 CFR 210—0960–0564

Financial institutions (FI) collect Direct Deposit (DD)/Electronic Funds Transfer (EFT) information from their depositors who are enrolling for the first time, or who are changing DD/EFT information. The Department of Treasury's Green Book, which is available online, includes information needed to enroll under QuickStart. The Green Book provides the data elements the recipient completes to enroll in direct deposit. Since the FI submits the DD/EFT information electronically, it is not using a SSA-prescribed form for sending information to Government agencies. SSA collects this information to facilitate electronic payments of funds. The respondents are Social Security and SSI recipients, and their FIs.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 3,950,000.

Frequency of Response: 1.

Average Burden per Response: 3 minutes.

Estimated Annual Burden: 197,500 hours.

3. Certification of Low Birth Weight—20 CFR 416.931, 416.926a(m), and 416.924—0960–0720

Hospitals and claimants use Form SSA–3380 to provide medical information to local field offices (FO) and the Disability Determination Services (DDS) on behalf of infants with low birth weight. FOs use the form as a protective filing statement and the medical information to make presumptive disability findings, which allow expedited payment to eligible claimants. DDSs use the medical information to determine disability and continuing disability. The respondents are hospitals that have information identifying low birth weight babies and their medical conditions.

Note: This is a correction notice. SSA published this information collection as an extension on January 15, 2009 at 74 FR 2643. Since we are revising the Privacy Act Statement, this is now a revision of an OMB-approved information collection.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 24,000.

Frequency of Response: 1.

Average Burden per Response: 15 minutes.

Estimated Annual Burden: 6,000 hours.

4. Letter to Employer Requesting Information about Wages Earned by Beneficiary—20 CFR 416.703 & 404.801—0960–0034

When SSA has incomplete or questionable wage data, SSA uses Form SSA–L725 to verify a beneficiary's wages. SSA uses the information on the SSA–L725 to calculate the correct benefits payable and to maintain an accurate record of earnings for the beneficiary. Respondents are small business employers.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 150,000.

Frequency of Response: 1.

Average Burden per Response: 40 minutes.

Estimated Annual Burden: 100,000 hours.

5. Statement of Care and Responsibility for Beneficiary—20 CFR 404.2020, 404.2025, 408.620, 408.625, 416.620, 416.625—0960–0109

SSA uses information from Form SSA–788 to verify statements of concern made by payee applicants and to identify other potential payees. SSA is concerned with selecting the most qualified representative payee who will use Social Security benefits in the beneficiary's best interest. SSA considers factors such as the payee applicant's capacity to perform payee duties, awareness of the beneficiary's situation and needs, demonstration of past and current concern for the beneficiary's well-being. If the payee applicant does not have custody of the beneficiary, SSA will obtain information from the custodian to evaluate against information provided by the applicant. Respondents are individuals who have custody of the beneficiary in cases where someone else has filed to be the beneficiary's representative payee.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 130,000.

Frequency of Response: 1.

Average Burden per Response: 10 minutes.

Estimated Annual Burden: 21,667 hours.

6. Third Party Liability Information Statement—42 CFR 433.136–433.139—0960–0323

Medicaid state agencies must identify third party insurers liable for medical care or services for Medicaid beneficiaries; this reduces Medicaid costs. Regulations at 42 CFR 433.136–433.139 require Medicaid state agencies to obtain this information on Medicaid applications and redeterminations as a condition of Medicaid eligibility. States may enter into agreements with the Commissioner of Social Security to make Medicaid eligibility determinations for aged, blind, and disabled beneficiaries in those states. Applications for and redeterminations of SSI eligibility in jurisdictions with such agreements are applications and redeterminations of Medicaid eligibility. Under these agreements, SSA obtains third party liability information using Form SSA–8019 and provides that information to the Medicaid state agencies. The Medicaid state agencies use the information to bill third parties liable for medical care, support, or services for a beneficiary to guarantee that Medicaid remains the payer of last resort. The respondents are SSI claimants and recipients.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 62,834.

Frequency of Response: 1.

Average Burden per Response: 5 minutes.

Estimated Annual Burden: 5,236 hours.

7. Application for Special Age 72-or-Over Monthly Payments—20 CFR 404.380–404.384—0960–0096

Form SSA–19–F6 collects the information needed to determine whether a claimant can qualify for Special Age 72 payments. SSA will evaluate eligibility requirements using the data collected on this form. The respondents are individuals who reached age 72 before 1972.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 10.

Frequency of Response: 1.

Average Burden per Response: 10 minutes.

Estimated Annual Burden: 2 hours.

Dated: March 30, 2009.

John Biles,

Reports Clearance Officer, Center for Reports Clearance, Social Security Administration.

[FR Doc. E9–7453 Filed 4–6–09; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 6568]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Youth Leadership Programs: Sub-Saharan Africa

Announcement Type: New grant.

Funding Opportunity Number: ECA/PE/C/PY–09–42.

Catalog of Federal Domestic Assistance Number: 00.000.

Application Deadline: May 21, 2009.

Executive Summary: The Office of Citizen Exchanges, Youth Programs Division, of the Bureau of Educational and Cultural Affairs announces an open competition for two Youth Leadership Program grants for countries of Sub-Saharan Africa, one for 40 participants from four Anglophone countries (Nigeria, Tanzania, Kenya and South Africa), and one for 60 participants from six Francophone countries (Burkina Faso, Chad, Cote D'Ivoire, Mali, Mauritania, and Niger). [*Note*: Target countries may be subject to change.] Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 USC 501(c)(3) may submit proposals to conduct a minimum of two U.S.-based three-week exchange projects for combinations of two Anglophone countries, or a minimum of three U.S.-based three-week exchange projects for combinations of two Francophone countries. The project activities will focus on civic education, leadership, diversity, and community activism, which will prepare participants to conduct follow up activities at home that serve a community need.

I. Funding Opportunity Description

Authority: Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Purpose: The Youth Leadership Program for Sub-Saharan Africa will support two grants for five projects that will bring teenagers, ages 15–17, and educators from selected countries to the United States for three-week exchanges focused on developing leadership skills and civic responsibility. The participants will be recruited from underserved populations in these countries where youth are susceptible to adverse influences. U.S. Embassies in the participating countries will recruit, screen, and select the participants; provide pre-departure briefings; facilitate visas; arrange international travel to the United States; and provide support to alumni for follow-on projects. The grant recipients will design and implement the U.S.-based exchange activities.

The applicant organizations must propose projects that offer a practical examination of the principles of democracy and civil society as practiced in the United States, and provide skills training in leadership, conflict management/resolution, and critical thinking that will help students develop a better sense of civic responsibility and foster respect for diversity and cross-cultural relationships based on mutual understanding and respect.

Proposals must present a program plan that allows the participants to thoroughly explore civic education in the United States in a creative, memorable, and practical way. Activities should be designed to be replicable and provide practical knowledge and skills that the participants can apply to school and civic activities at home. The project must include multiple opportunities for participants to interact with American youth and educators, and include homestays with American families.

The goals of the program are:

(1) To promote mutual understanding between the people of the United States and the people of the partner countries;

(2) To develop a sense of civic responsibility and commitment to community development among youth;

(3) To develop leadership skills among secondary school students appropriate to their needs; and

(4) To foster relationships among youth from different ethnic, religious, and national groups.

In addition to the themes of civic education and leadership, applicants are invited to include sub-themes on relevant issues specific to the project countries (as listed above), particularly as a mechanism for seeing what their peers in the United States are doing in these areas, and as a tool for exploring the primary themes of the program.

A successful project will be one that nurtures a cadre of students and teachers to be actively engaged in addressing issues of concern in their schools and communities upon their return home, and that equips them with the knowledge, skills, and confidence to become citizen activists.

The Bureau anticipates awarding two grants. One grant will support two Youth Leadership projects for four Anglophone countries, and one grant will support three Youth Leadership projects for six Francophone countries. Organizations may submit one proposal for a minimum of two projects for combinations of two Anglophone countries, or, submit one proposal for a minimum of three projects for combinations of two Francophone countries. Organizations may apply for the Anglophone Countries program or for the Francophone Countries program; they may not apply for both. The projects will be judged independently and proposals will be compared only to proposals for the same area (Anglophone or Francophone) of interest. Note that the U.S. Embassies will be responsible for international travel; therefore, the grant funds available through this solicitation are not to cover the international airfare for the exchange participants.

Project A: Sub-Sahara Africa Youth Leadership Program—Anglophone Countries

One Grant: Funding for this grant is approximately $210,000.

The program will be offered for a total of forty (40) participants: eight (8) students and two (2) educators from each of the four participating countries: Kenya, Nigeria, South Africa, and Tanzania. [*Note:* Target countries may be subject to change, or, if less than four countries participate the target number of 40 participants will be spread among participating countries.]

Applicants must propose a minimum of two, three-week U.S.-based exchange projects to take place between the months of November 2009 through December 2010. One project must take place either in late fall 2009 or early spring 2010. Each project must include two countries for a minimum of 20 participants, eight (8) students and two (2) teachers from each country.

Note: If less than four countries participate, the Bureau will re-negotiate for one exchange project to include three countries for thirty four (34) students and six (6) educators, or two countries for thirty two (32) students and eight (8) educators.

Project B: Sub-Sahara Africa Youth Leadership Program—Francophone Countries

One Grant: Funding for this grant is approximately $375,000.

The program will be offered for sixty (60) participants, eight (8) students and two (2) educators from each of six participating countries: Burkina Faso, Chad, Cote D'Ivoire, Mali, Mauritania, Niger. [Note: Target countries may be subject to change; or, if less than six countries participate the target number of 60 participants will be spread among participating countries.]

Applicants must propose a minimum of three, three-week U.S.-based exchange projects to take place between the months of November 2009 through March 2011. One project must take place either in late fall 2009 or early spring 2010. Each project must include two countries for a minimum of 20 participants, eight (8) students and two (2) educators from each country. Each project will be conducted in French and must include language interpreters arranged by the grantee organization.

Note: If less than six countries participate, the Bureau will re-negotiate for two exchange projects. For example, one project with 40 participants will include thirty-two (32) students and eight (8) educators; one project with two countries will include twenty (20) students and four (4) educators for a total of 24 participants; or one project with three countries will include thirty (30) students and six (6) educators for at total of 36 participants.

For Both Programs

Applicant organizations should outline their capacity for doing projects of this nature, focusing on three areas of competency of the staff directly associated with the program: (1) Provision of leadership and civic education programming, (2) age-appropriate programming for youth, and (3) demonstrated understanding of and

experience in programs with the specified geographic region. Applicants need not have a partner in the participating countries, as the staff of the Public Affairs Section (PAS) of the U.S. Embassies will recruit and select the participants and provide a pre-departure orientation.

Guidelines

The grants will begin on or about September 15, 2009. The grant period will be 12 to 18 months in duration, as appropriate for the applicant's program design. Applicants should propose the period of the exchange(s) based on the timeframes noted above, but the exact timing of the project may be altered through the mutual agreement of the Department of State and the grant recipients. The exchange should be no less than 25 days in duration, including international travel time.

The participants will be students between the ages of 15 and 17 who have demonstrated leadership potential in their schools and/or communities. The educators will be high school teachers, or possibly community leaders who work with youth, who have demonstrated an interest in promoting youth leadership. For the Anglophone countries, participants will be proficient in the English language. Language interpreters must be provided for the participants from the Francophone countries. Where possible, U.S. Embassy staff will seek educators with some English ability.

In pursuit of the goals outlined above, the grant recipients will provide the following:

- Information about the U.S. program and pre-departure materials to help the U.S. Embassies, participants, and their families in preparation for the exchange.
- French language interpreters (including fees, domestic travel to program sites, and per diem).
- A welcome orientation.
- Approximately two weeks of activities in one or two communities in the United States that provide a substantive program on civic education, community activism, and leadership through both academic and extracurricular components. A portion of the program, from two to six days, should be in Washington, DC. Activities should take place in schools and in community settings. Community service must be included. It is crucial that programming involve American students whenever possible.
- Opportunities for the educators to work with their American peers to help them foster youth leadership, civic education, and community service programs at home.
- Homestay arrangements with properly screened and briefed American families for the majority of the exchange period.
- Logistical arrangements, disbursement of stipends, local travel, travel between U.S. sites, lodging and meals when not in the homestay.
- A closing session to summarize the project activities and prepare participants for their return home.
- Guidance on follow-on activities, in coordination with the U.S. Embassies, in order to advise the participants who have returned home on how to apply what they have learned during the exchange to address a community need.

The proposal narrative must provide detailed information on the program activities outlined above, and applicants should explain and justify their programmatic choices. Proposals must demonstrate how the stated objectives will be met. Programs must comply with J–1 visa regulations for the International Visitor and Government Visitor categories.

It is essential that all applicants refer to the three documents in the complete Solicitation Package—this Request for Grant Proposals (RFGP), the Project Objectives, Goals, and Implementation (POGI), and the Proposal Submission Instructions (PSI)—for further information.

II. Award Information

Type of Award: Grant agreement.

Fiscal Year Funds: 2009.

Approximate Total Funding:

Approximate Number of Awards: Two.

Sub-Saharan Africa Youth Leadership Program—Anglophone Countries: $210,000.

Sub-Saharan Africa Youth Leadership Program—Francophone Countries: $375,000.

Anticipated Award Date: Pending availability of funds, September 15, 2009.

Anticipated Project Completion Date: 12 to 18 months after the onset of the award, to be determined by the applicant according to its program design.

III. Eligibility Information

III.1. Eligible Applicants

Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 USC 501(c)(3).

III.2. Cost Sharing or Matching Funds

There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs. Please note that cost sharing is one of the criteria by which proposals will be judged.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs which are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements

III.3.a. Bureau grant guidelines require that applicant organizations and sub-award organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. ECA anticipates awarding two grants, each exceeding $60,000, to support program and administrative costs required to implement this exchange program. Therefore, organizations with less than four years experience in conducting international exchanges at the time of application are not eligible to apply under this competition. [**Note**: Organizations may apply for the Anglophone Countries program or for the Francophone Countries program; they may not apply for both.]

III.3.b. The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs. Payments for homestays are not allowed as either a grant-funded or cost-share line item. The grant recipient will enroll exchange participants in ECA's Accident and Sickness Program for Exchanges (ASPE). Applicants need not include these health benefits costs in their budgets.

IV. Application and Submission Information

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants

until the proposal review process has been completed.

IV.1. Contact Information To Request an Application Package

Please contact the Youth Programs Division, Office of Citizen Exchanges, ECA/PE/C/PY, Room 568, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547. Telephone (202) 453–8171, Fax (202) 453–8169; E-mail: *PiersonCompeauHM@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/PE/C/PY–09–42 when making your request.

Alternatively, an electronic application package may be obtained from *http://grants.gov*. Please see section IV.3f for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document, which consists of required application forms, and standard guidelines for proposal preparation. It also contains the Project Objectives, Goals and Implementation (POGI) document, which provides specific information, award criteria, and budget instructions tailored to this competition.

Please specify Program Officer Shalita Jones and refer to the Funding Opportunity Number ECA/PE/C/PY–09–42 on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package via Internet

The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/grants/open2.html*, or from the Grants.gov Web site at *http://www.grants.gov.*

Please read all information before downloading.

IV.3. Content and Form of Submission

Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under IV.3f. ''Application Deadline and Methods of Submission'' section below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document and the Project Objectives, Goals and Implementation (POGI) document for additional formatting and technical requirements.

IV.3c. You must have nonprofit status with the IRS at the time of application. *Please Note*: Effective January 7, 2009, all applicants for ECA Federal assistance awards must include in their application the names of directors and/or senior executives (current officers, trustees, and key employees, regardless of amount of compensation). In fulfilling this requirement, applicants must submit information in one of the following ways:

(1) Those who file Internal Revenue Service Form 990, ''Return of Organization Exempt From Income Tax,'' must include a copy of relevant portions of this form.

(2) Those who do not file IRS Form 990 must submit information above in the format of their choice.

In addition to final program reporting requirements, award recipients will also be required to submit a one-page document, derived from their program reports, listing and describing their grant activities. For award recipients, the names of directors and/or senior executives (current officers, trustees, and key employees), as well as the one-page description of grant activities, will be transmitted by the State Department to OMB, along with other information required by the Federal Funding Accountability and Transparency Act (FFATA), and will be made available to the public by the Office of Management and Budget on its *http://USASpending.gov* Web site as part of ECA's FFATA reporting requirements.

If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1. Adherence to All Regulations Governing the J Visa

The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the ''Responsible Officer'' for the program under the terms of 22 CFR 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR 62, organizations receiving awards (either a grant or cooperative agreement) under this RFGP will be third parties ''cooperating with or assisting the sponsor in the conduct of the sponsor's program.'' The actions of recipient organizations shall be ''imputed to the sponsor in evaluating the sponsor's compliance with'' 22 CFR 62. Therefore, the Bureau expects that any organization receiving an award under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR 62 *et seq*.

The Bureau of Educational and Cultural Affairs places critically important emphases on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by recipient organizations and program participants to all regulations governing the J visa program status. Therefore, proposals should *explicitly state in writing* that the applicant is prepared to assist the Bureau in meeting all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR 62. If your organization has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss their record of compliance with 22 CFR 62 *et seq.*, including the oversight of their Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

The Office of Citizen Exchanges of ECA will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD–SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547. *Telephone*: (202) 203–5029. *Fax*: (202) 453–8640.

IV.3d.2. Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation

Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the recipient organization will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes*. *Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes,* in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. Participant satisfaction with the program and exchange experience.
2. Participant learning, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.
3. Participant behavior, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.
4. Institutional changes, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please Note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (*i.e.,* surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Recipient organizations will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3e. Please Take the Following Information into Consideration When Preparing Your Budget

Applicants must submit a comprehensive budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

Please refer to the POGI and PSI for complete budget guidelines and formatting instructions.

IV.3.f. Application Deadline and Methods of Submission

Application Deadline Date: May 21, 2009.

Reference Number: ECA/PE/C/PY–09–42.

Methods of Submission:

Applications may be submitted in one of two ways:

(1) In hard-copy, via a nationally recognized overnight delivery service (*i.e.,* Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

(2) Electronically through *http://www.grants.gov.*

Please Note: ECA strongly encourages organizations interested in applying for this competition to submit printed, hard copy applications as outlined in section IV.3f.1., below rather than submitting electronically through Grants.gov. This recommendation is being made as a result of the anticipated high volume of grant proposals that will be submitted via the Grants.gov Web portal as part of the Recovery Act stimulus package. As stated in these RFGPs, ECA bears no responsibility for data errors resulting from transmission or conversion processes for proposals submitted via Grants.gov

Along with the Project Title, all applicants must enter the above

Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1. Submitting Printed Applications

Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will not notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages may not be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important Note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM''.

The original, one fully-tabbed copy, and five (5) copies with Tabs A–E and appendices (no Tab F) should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, *Ref.:* ECA/PE/C/PY–09–42, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

With the submission of the proposal package, please also e-mail the Executive Summary, Proposal Narrative, and Budget sections of the proposal, as well as any attachments essential to understanding the program, in Microsoft Word and/or Excel to the program officer at *jonessa1@state.gov.* The Bureau will provide these files electronically to the Public Affairs Section at the U.S. Embassies for their review.

IV.3f.2. Submitting Electronic Applications

Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the ''Find'' portion of the system. *Please Note:* ECA strongly encourages organizations interested in applying for this competition to submit printed, hard copy applications as outlined in section IV.3f.1., above rather than submitting electronically through Grants.gov. This recommendation is being made as a result of the anticipated high volume of grant proposals that will be submitted via the Grants.gov Web portal as part of the Recovery Act stimulus package. As stated in this RFGP, ECA bears no responsibility for data errors resulting from transmission or conversion processes for proposals submitted via Grants.gov.

Please follow the instructions available in the 'Get Started' portion of the site (*http://www.grants.gov/GetStarted*).

Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with Grants.gov.

Once registered, the amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your Internet connection. In addition, validation of an electronic submission via Grants.gov can take up to two business days.

Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.

The Grants.gov Web site includes extensive information on all phases/aspects of the Grants.gov process, including an extensive section on frequently asked questions, located under the ''For Applicants'' section of the Web site. ECA strongly recommends that all potential applicants review thoroughly the Grants.gov Web site, well in advance of submitting a proposal through the Grants.gov system. ECA bears no responsibility for data errors resulting from transmission or conversion processes.

Direct all questions regarding Grants.gov registration and submission to:

Grants.gov Customer Support.

Contact Center Phone: 800–518–4726.

Business Hours: Monday–Friday, 7 a.m.–9 p.m. Eastern Time.

E-mail: support@grants.gov.

Applicants have until midnight (12 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. *There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.*

Please refer to the Grants.gov Web site, for definitions of various ''application statuses'' and the difference between a submission receipt and a submission validation. Applicants will receive a validation e-mail from Grants.gov upon the successful submission of an application. Again, validation of an electronic submission via Grants.gov can take up to two business days. *Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.* ECA will *not* notify you upon receipt of electronic applications.

It is the responsibility of all applicants submitting proposals via the Grants.gov Web portal to ensure that proposals have been received by Grants.gov in their entirety, and ECA bears no responsibility for data errors resulting from transmission or conversion processes.

IV.3g. Intergovernmental Review of Applications

Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards (grants) resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below.

1. *Quality of the Program Idea:* Objectives should be reasonable, feasible, and flexible. The proposal should clearly demonstrate how the institution will meet the program's

objectives and plan. The proposed program should be well developed, respond to the design outlined in the solicitation, and demonstrate originality. It should be clearly and accurately written, substantive, and with sufficient detail. Proposals should also include a plan to support participants' community activities upon their return home.

2. *Program Planning:* A detailed agenda and work plan should clearly demonstrate how project objectives would be achieved. The agenda and plan should adhere to the program overview and guidelines described above. The substance of workshops, seminars, presentations, school-based activities, and/or site visits should be described in detail.

3. *Support of Diversity:* The proposal should demonstrate the recipient's commitment to promoting the awareness and understanding of diversity in program content.

4. *Institutional Capacity and Track Record:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program goals. The proposal should demonstrate an institutional record, including responsible fiscal management and full compliance with all reporting requirements for any past Bureau grants as determined by the Bureau's Office of Contracts. The Bureau will consider the past performance.

5. *Program Evaluation:* The proposal should include a plan to evaluate the program's success in meeting its goals, both as the activities unfold and after they have been completed. The proposal should include a draft survey questionnaire or other technique, plus a description of a methodology to link outcomes to original project objectives.

6. *Cost-effectiveness and Cost Sharing:* The applicant should demonstrate efficient use of Bureau funds. The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. The proposal should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

VI. Award Administration Information

VI.1a. Award Notices

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive a Federal Assistance Award (FAA) from the Bureau's Grants Office. The FAA and the original proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The FAA will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2. Administrative and National Policy Requirements

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''

Office of Management and Budget Circular A–21, ''Cost Principles for Educational Institutions.''

OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments.''

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following Web sites for additional information:
http://www.whitehouse.gov/omb/grants.
http://fa.statebuy.state.gov.

VI.3. Reporting Requirements

You must provide ECA with a hard copy original plus one copy of the following reports:

1. Interim reports, as required in the Bureau grant agreement.

2. A final program and financial report no more than 90 days after the expiration of the award;

3. A concise, one-page final program report summarizing program outcomes no more than 90 days after the expiration of the award. This one-page report will be transmitted to OMB, and be made available to the public via OMB's USAspending.gov Web site—as part of ECA's Federal Funding Accountability and Transparency Act (FFATA) reporting requirements.

4. A SF–PPR, ''Performance Progress Report'' Cover Sheet with all program reports.

Award recipients will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VII. Agency Contacts

For questions about this announcement, contact: Shalita Jones, Program Officer, Youth Programs Division, ECA/PE/C/PY, Room 568, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547. Telephone (202) 203–7507. Fax (202) 203–7529. E-mail: *jonessa1@state.gov*.

All correspondence with the Bureau concerning this RFGP should reference the above title and the reference number ECA/PE/C/PY–09–42.

Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: March 31, 2009.

C. Miller Crouch,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E9–7851 Filed 4–6–09; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 6569]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: 2009 Fellowships in the Arts: Documentary Filmmaking and Iraq Museum Residencies

Announcement Type: New Cooperative Agreements.

Funding Opportunity Number: ECA/PE/C/CU–09–49.

Catalog of Federal Domestic Assistance Number: 00.000.

Key Dates:

Application Deadline: May 12, 2009.

Executive Summary: The Cultural Programs Division of the Office of Citizen Exchanges in the Bureau of Educational and Cultural Affairs announces an open competition for two Cooperative Agreements to support programs for short residency and training programs in the United States for emerging and mid-career documentary filmmakers from around the world and museum specialists from Iraq. The Bureau anticipates that approximately $900,000 will be available to support this competition. Grantees will design, develop, and implement 30–60 day programs in the United States for the selected participants, individually or in small groups. Each program should be built around a residency experience, which may be supplemented by other program elements designed to enhance and expand upon the activities of the residency.

Proposed projects should transform institutional and individual understanding of key international, arts and/or cultural issues, foster dialogue, and develop professional expertise and leadership capacity. Projects should be structured to encourage American professionals and their international counterparts to develop a common dialogue for dealing with shared challenges and concerns.

The Bureau is interested in receiving proposals from organizations with a strong interest, thematic expertise, institutional commitment, and a successful track-record in conducting international exchanges and in the specific thematic field their proposal addresses. Organizations that have the expertise, interest, and institutional commitment but lack the required experience of conducting exchanges may wish to consider developing proposals based on consortia type relationships with more experienced, eligible organizations. Please note that for these proposals, the role of each organization must be clearly defined and any sub-granting agreements must be included in the proposal submission.

I. Funding Opportunity Description

Authority:

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic, and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Purpose: This competition is based on the premise that people-to-people exchanges encourage and strengthen understanding of democratic values and nurture the cultural and social growth of societies. Under this premise, the Bureau offers a new funding opportunity for organizations to develop short residency and training programs in the United States for emerging and mid-career documentary filmmakers from around the world and museum professionals from Iraq. Proposals that show strong prospects for enhancing existing long-term collaborations or establishing new collaborative efforts among participating organizations will be deemed more competitive under the program planning criterion listed below.

The two project themes for which the Bureau will accept proposals under this competition are as follows: (1) Documentary Filmmaker Fellowship Program; and (2) Iraq Museum Professional Residency Program.

Under this program, U.S. non-profit organizations will conduct projects in cooperation with the Bureau of Educational and Cultural Affairs, Cultural Programs Division on the themes listed above, with their counterparts abroad for each project theme. No guarantee is made or implied that cooperative agreements will be awarded in both themes.

In addition to describing extensive expertise in the specific thematic area, proposals should reflect a practical understanding of global issues, and demonstrate sensitivity to cultural, political, economic, and social differences in the specific world regions in which the exchange project will occur. Special attention should be given to describing the applicant organization's experience with planning and implementing people-to-people international cultural exchange projects. Applicants should outline their project team's capacity for successfully implementing projects of this nature, provide a detailed sample program and time line to illustrate planning capacity and ability to achieve program objectives. Applicants must identify all U.S. and foreign partner organizations and/or venues with whom they are proposing to collaborate, and describe previous cooperative projects in the section on ''Institutional Capacity.'' For this competition, applicants must include in their proposal supporting materials or documentation that demonstrates a minimum of five years experience in conducting international arts exchange programs and four years experience in conducting exchange programs with the U.S. Government. Proposals must include references with name and contact information for other assistance awards the applicant has received in the event the Bureau chooses to be in touch directly.

Proposals should acknowledge U.S. Embassy involvement in the participant nomination process and the Cultural Programs Division's (ECA/PE/C/CU) involvement in the final selection of all participants.

For the 2009 Fellowships in the Arts, U.S. non-profit organizations may submit proposals for either one of the two—but not both—project themes and countries of exchange that are listed below. Please note that for additional information about this competition, a contact program officer at ECA is listed under each of the following two themes:

1. *Documentary Filmmaker Fellowship Program (not to exceed $400,000):*

Residency and Training cultural exchange for foreign emerging documentary filmmakers from countries to be determined by ECA/PE/C/CU.

Program Contact: Susan Cohen, tel: (202) 203–7509, e-mail: *CohenSL@state.gov* with copy to: *ProctorLF@state.gov*.

Project Goals:

ECA seeks programs that will provide participants with in-depth exposure to their professional discipline as practiced in the U.S.; outreach to U.S. colleagues and publics, particularly youth, and; opportunities for creation and presentation of their work. ECA will select innovative programs for emerging or mid-career professionals in documentary filmmaking that will introduce them to the diversity of

cultural expression in the United States; provide them with direct, hands-on experience with new techniques and technology in filmmaking; offer opportunities for interaction with U.S. filmmakers and other arts professionals; assist them with the development of their careers; familiarize them with the business aspects of documentary filmmaking, including measures to protect artists' rights, and; offer them opportunities to share their work with U.S. audiences. The Bureau is particularly interested in program components that will provide linkages between participants and public school students in the U.S.

Proposals should provide programs for a group of twenty (20) participants. The proposal should describe the proposed program, explain how it reflects the diversity of U.S. culture, show how it responds to the needs and interests of artists coming from a variety of countries and backgrounds, and demonstrate how it responds to ECA's goals.

Programs may be 30–60 days in length. Applicants should explain their rationale for the length of the program proposed. Programs should be centered on documentary filmmaking, should be customized to meet the needs and interests of the participants, and include the foreign program participants as peers of U.S. counterparts. Applicants should include other activities that will enhance the residency experience, including site visits; meetings with U.S. film directors, cinematographers, and other arts professionals; public presentations of program participants' work, and; workshops for U.S. youth and educators. All programs must include the opportunity for participants to create works and to share their creation with U.S. colleagues and the public, particularly youth. Program activities complementary to the residency may take place in one or more locations in the U.S. This project does not include program activities outside the U.S. Participation in university courses for credit may not be included in proposals and participation in conferences will be considered only if it is clearly relevant to the professional background of the participants and represents only a small part of the overall program. Programs that exclusively involve participation in 'off-the-shelf' summer institutes or other pre-structured training situations are not acceptable and will not be funded.

The Bureau encourages public presentation of participants' documentary films and recognizes its value to mutual understanding. Proposals should therefore include opportunities for presentations and for public programs, such as panel discussions, and other avenues for program participants to discuss their work with U.S. audiences. Programming with U.S. public schools and/or other educational institutions is strongly encouraged.

Proposals should include a sample program with day-by-day schedules. An orientation session in Washington, D.C. must be included that provides general information about U.S. society and an opportunity for ECA to meet and brief newly arrived participants. A post-program event, at a site to be determined by grantee, that provides the opportunity for presentation of newly created documentaries and a de-briefing session must also be included.

Participants:

Program participants will be emerging or mid-career professional documentary filmmakers, generally aged 20–40 years from around the world. They should have also demonstrated a commitment to their profession as well as to positively influencing their communities, particularly minorities and youth. In general, participants will not have extensive or recent experience in the U.S. ECA intends that the program be highly competitive and that a final selection of nominations will result in a diverse mix of participants from a variety of countries.

Applicants must state that they are prepared to work with program participants from any country or region determined by ECA. ECA will determine the priority or target countries for recruitment of program participants. It is unlikely that the Bureau will include countries whose artistic film community has substantial and ongoing contact with its counterpart in the U.S., such as Western Europe. Potential program participants must have a working knowledge of English sufficient to carry out the residency program without interpretation.

Participant Selection:

Foreign participants will be nominated in two ways: By the Department of State through a call for nominations from U.S. Embassies and posts, and; by the grantee organization, which will utilize its own network of contacts overseas (including film industry, film associations) and its own resources (such as U.S. filmmakers) to make a concurrent call for nominations. All participant applications will be reviewed by a panel organized and convoked by the grantee organization and consisting of artists and art professionals, and an ECA representative as an observer. Procedures for the nomination, selection of participants, and panel members must be detailed in the proposal. ECA will review and approve nominees prior to and following panel consideration.

Successful programs will achieve the following:

—Enhance participant professional capacity.
—Provide participants with an appreciation and a greater understanding and respect for diverse cultures—focusing specifically on U.S. society and culture. Provide them a greater understanding of the similarities, including shared values between the U.S. and the foreign countries.
—Provide participants an understanding of how international cultural exchange and networking can positively influence their lives and those of others and provide them the tools to accomplish successful networking.
—Provide a platform for dialogue and development of enduring professional ties between U.S. contacts and foreign participants, as well as among foreign participants.
—Enhance participant leadership capacity and their ability to initiate and support follow-on activities in their home countries intended.

Successful applicants must fully demonstrate a capacity to achieve the following:

(1) Work jointly with foreign and U.S. partners and/or contacts to design, develop, and execute a multi-regional documentary film residency program of professional development, artistic enrichment and cross-cultural dialogue that achieves the goals described above.

(2) Identify, screen, recruit, and select twenty (20) foreign documentary filmmakers from specified countries fitting the above description.

(3) Provide a sound infrastructure for coordination and implementation of the entire program. This refers to both substantive and administrative components of the program, including but not limited to: Fellowship and workshop content and organization, travel, housing, orientation, and visa applications. Successful applicants will also have U.S. partners able and willing to provide cost-sharing (including in-kind) in order to help cover program costs.

(4) Design, build, and implement intensive 30–60 day professional residency filmmaking program in the U.S. that will achieve program objectives.

(5) Develop enhancement activities and opportunities that reinforce program goals after the participants

return to their home countries. Follow-on components could be public presentations of films by program participants. Applicants are directed to review the PSI for additional information on this criterion.

(6) Provide to ECA/PE/C/CU at the conclusion of the program a Web-ready package that will showcase participants' involvement in the program as well as feature the artistic product of their residency.

ECA expects that this project will lead to greater artist-to-artist and institution-to-institution contact as well as collaboration across international borders. Proposals should describe mechanisms for measuring, supporting, and enhancing this cooperation during the grant period and beyond.

In the cooperative agreement, ECA/PE/C/CU is substantially involved in program activities above and beyond routine monitoring. ECA/PE/C/CU responsibilities for this program are as follows:

■ ECA/PE/C/CU will make a final decision regarding countries for recruitment of program participants.

■ Embassies will be one channel for nominations of program participants. Grantee may propose names for consideration by Embassy Public Affairs Sections and will have the opportunity to review the biographic information submitted and advise if a specific nominee does not appear to have attained an appropriate professional level of expertise.

■ ECA/PE/C/CU will participate in selection of final participants for the program.

■ ECA/PE/C/CU will review the proposed residency, orientation and de-briefing program schedules and provide final approval.

■ ECA/PE/C/CU will issue DS–2019s needed for travel to the U.S. under the J visa program.

■ Following return to their home countries, Embassies will showcase the participating filmmakers and their work developed during or resulting from their experience in the U.S.

2. *Iraq Museum Professional Residency Program (not to exceed $500,000):*

Residency and Training cultural exchange for Iraqi museum professionals.

Program Contact: Alan Cross, tel: (202) 203–7497, e-mail: *CrossA@state.gov* with copy to: *BrooksMM@state.gov*.

Project Description:

ECA seeks an organization to design and implement residency programs that will provide museum professionals from Iraq with in-depth exposure to their professional discipline as practiced in the U.S.; outreach to U.S. colleagues and publics, and; opportunities for increasing mutual understanding between the people of Iraq and the United States. This residency program is an integral component of the 'Iraq Cultural Heritage Project' (ICHP), which constitutes ECA's major commitment to that country's cultural heritage. Over a period of three years, approximately 50 emerging and mid-career Iraqi museum professionals will participate in approximately 50 residencies in the United States designed to increase their expertise in collections management, cultural heritage conservation, digital collections/tools, museum administration, community engagement, and institutional capacity building. The programs will also be expected to introduce them to the diversity of cultural expression in the United States; provide them with direct, hands-on experience with new techniques and technology in their field; offer them opportunities for interaction with U.S. museum professionals; familiarize them with related fields, including private/public partnerships, volunteerism, and new technologies, and; offer them opportunities to share their work with U.S. audiences.

Programs will range from 30–60 days in length and will be custom designed by the grantee organization based on input from ECA and/or ECA partners. Residency programs will generally be sought for individual museum professionals, but could also be requested for a defined small group of museum professionals.

Proposals should include sample programs with day-by-day schedules for a 30-day residency. An orientation session must be included that will provide participants with general information about the United States, its form of government, society and culture. A post-program session in Washington, DC must also be included, providing the possibility for de-briefing. When possible and practicable, orientation and de-briefing sessions should take place in groups in order to make best use of resources.

The project will entail working with ECA and/or its designated partners in planning and scheduling all events, including:

■ Arranging all air travel (domestic and international) and local transportation;

■ Oversight of arrivals and departures (international and/or domestic);

■ Preparation of briefing materials for participants;

■ Designing and planning residencies as well as additional activities;

■ Coordinating escorts as necessary;

■ Arranging payment for all costs related to the residency program, including those incurred by residency hosts (museums or other identified civic spaces), per diem and lodging for participants; educational materials, equipments or supplies; etc.

Program activities complementary to the residency may take place in one or more locations in the U.S. This project does not include program activities outside the U.S. Participation in university courses for credit may not be included in proposals and participation in conferences will be considered only if it is clearly relevant to the professional background of the participants and represents only a small part of the overall program. Programs that exclusively involve participation in 'off-the-shelf' summer institutes or other pre-structured training situations are not acceptable and will not be funded.

Any key U.S. partner institutions should be identified and letters of support should be provided in the proposal.

Participants:

Program participants will be emerging and mid-career museum professionals, generally aged 20–40 years from Iraq. They will have various levels of experience in the museum field and, in general, will not have extensive experience in the United States.

Potential program participants must have a working knowledge of English sufficient to carry out the residency program without interpretation.

Participant Nomination and Selection:

Foreign participants will be nominated through different channels, and will include but are not limited to: Successful participants from other ICHP projects, nominees from the U.S. Embassy in Baghdad, and nominees from other USG and Iraqi partners. Grantee may also propose names for consideration by the Public Affairs Section of the U.S. Embassy in Baghdad. Final selection of participants will be made by ECA.

Successful programs will achieve the following:

—Enhance participant professional capacity.

—Provide a platform for dialogue and development of enduring professional ties between U.S. contacts and foreign participants, as well as among foreign participants.

—Enhance participant leadership capacity and their ability to initiate

and support follow-on activities in their home countries intended.

—Provide participants with an appreciation and a greater understanding and respect for diverse cultures—focusing specifically on U.S. society and culture. Provide them a greater understanding of the similarities, including shared values between the U.S. and Iraq.

—Provide participants an understanding of how international cultural exchange and networking can positively influence their lives and those of others and provide them the tools to accomplish successful networking.

Successful applicants must fully demonstrate a capacity to achieve the following:

(1) Work jointly with foreign and U.S. partners and/or contacts to design, develop, and execute a variety of museum residency programs for professional development, artistic enrichment and cross-cultural dialogue that achieve the goals described above.

(2) Provide a sound infrastructure for coordination and implementation of the entire program. This refers to both substantive and administrative components of the program, including but not limited to: Fellowship and workshops content and organization, international and domestic travel, housing, orientation, and visa applications. Successful applicants will also have U.S. partners able and willing to provide cost-sharing (including in-kind) in order to help cover program costs.

(3) Design, build, and implement intensive 30–60 day museum residency programs in the U.S. that will achieve program objectives.

(4) Develop enhancement activities and opportunities that reinforce program goals after the participants return to their home countries. Follow-on components could be public presentations by program participants. Applicants are encouraged to review the PSI for additional information regarding this criterion.

(5) Show understanding of the challenges of collaboration in the design and implementation of the residency programs and propose means for addressing them.

ECA expects that this project will lead to greater person-to-person and institution-to-institution contact as well as collaboration across international borders. Proposals should describe mechanisms for measuring, supporting and enhancing this cooperation during the grant period and beyond.

In the cooperative agreement, ECA/PE/C/CU is substantially involved in program activities above and beyond routine monitoring. ECA/PE/C/CU responsibilities for this program are as follows:

■ ECA/PE/C/CU will make the final determination of program participants. Participants will be nominated as stated previously.

■ ECA/PE/C/CU will review the proposed residencies, orientation and de-briefing program schedules, and provide final approval.

■ Where applicable, ECA/PE/C/CU will issue DS–2019s needed for travel to the U.S. under the J visa program.

II. Award Information

Type of Award: Cooperative Agreements. ECA's level of involvement in this program is listed under number I above.

Fiscal Year Funds: FY–2009.

Approximate Total Funding: $900,000.

Approximate Number of Awards: 2.

Approximate Average Award:

Project 1: $400,000.

Project 2: $500,000.

Anticipated Award Date: September 1, 2009.

Anticipated Project Completion Dates: December 30, 2010 for documentary residency; December 30, 2012 for Iraq museum residency.

III. Eligibility Information

III.1. Eligible applicants:

Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 USC 501(c)(3).

III.2. Cost Sharing or Matching Funds: There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs which are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing, and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements:

(a) Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. ECA anticipates making two separate awards, in amounts up to $500,000 to support program and administrative costs required to implement this exchange program. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition. The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

(b) Proposals must demonstrate that an applicant has an established resource base of programming contacts and the ability to keep this resource base continuously updated. This resource base should include but is not limited to thematically related institutions (e.g., film organizations and museums), speakers, thematic specialists, and practitioners in a wide range of professional fields in both private and public sectors.

(c) Technical Eligibility: All proposals must comply with the list of requirements below or they will result in your proposal being declared technically ineligible and given no further consideration in the review process:

— Applicants may only submit one proposal under this open competition. Submission of more than one proposal per applicant under this open competition will render all proposals by the applicant technically ineligible and will not receive further consideration in the review process.

— Proposals for Project 2 (Iraq Museum Professionals Residency program) that contain any other country will be considered technically ineligible, and will not receive further consideration in the review process.

— For this competition, all eligible organizations must demonstrate a minimum of five years' experience successfully conducting international arts exchange programs that involved the exchange of participants, as well as at least four years' experience successfully conducting international programs with the U.S. Government.

— Key U.S. partner institutions and their roles in the project must be identified and letters of support provided in the proposal.

IV. Application and Submission Information

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1 Contact Information to Request an Application Package:

Please contact the Cultural Programs Division of the Office of Citizens' Exchanges of the Bureau of Educational and Cultural Affairs, ECA/PE/P/CU, Room 569, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, 202–703–7488, fax: 202–203–7525, *ProctorLM@state.gov*, to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/PE/C/CU–09–49 located at the top of this announcement when making your request. Alternatively, an electronic application package may be obtained from grants.gov. Please see section IV.3f for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document which consists of required application forms, and standard guidelines for proposal preparation.

Please specify Susan Cohen and refer to the Funding Opportunity Number ECA/PE/C/CU–09–49 located at the top of this announcement on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package via Internet:

The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/grants/open2.html,* or from the Grants.gov Web site at *http://www.grants.gov.*

Please read all information before downloading.

IV.3. *Content and Form of Submission:* Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under IV.3f. ''Application Deadline and Methods of Submission'' section below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document for additional formatting and technical requirements.

IV.3c. You must have nonprofit status with the IRS at the time of application. Please note: Effective January 7, 2009, all applicants for ECA Federal assistance awards must include in their application the names of directors and/or senior executives (current officers, trustees, and key employees, regardless of amount of compensation). In fulfilling this requirement, applicants must submit information in one of the following ways:

(1) Those who file Internal Revenue Service Form 990, ''Return of Organization Exempt From Income Tax,'' must include a copy of relevant portions of this form.

(2) Those who do not file IRS Form 990 must submit information above in the format of their choice.

In addition to final program reporting requirements, award recipients will also be required to submit a one-page document, derived from their program reports, listing and describing their grant activities. For award recipients, the names of directors and/or senior executives (current officers, trustees, and key employees), as well as the one-page description of grant activities, will be transmitted by the State Department to OMB, along with other information required by the Federal Funding Accountability and Transparency Act (FFATA), and will be made available to the public by the Office of Management and Budget on its USASpending.gov Web site as part of ECA's FFATA reporting requirements.

If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1 Adherence to all Regulations Governing the J Visa

The Bureau of Educational and Cultural Affairs places critically important emphases on the security and proper administration of the Exchange Visitor (J visa) Programs and adherence by award recipients and sponsors to all regulations governing the J visa. Therefore, proposals should demonstrate the applicant's capacity to meet all requirements governing the administration of the Exchange Visitor Programs as set forth in 22 CFR 62, including the oversight of Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

ECA/PE/C/CU will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD–SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547, Telephone: (202) 203–5029, FAX: (202) 453–8640.

Please refer to Solicitation Package for further information.

IV.3d.2 Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3 Program Monitoring and Evaluation

Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the recipient organization will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes*. *Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes*, in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. Participant satisfaction with the program and exchange experience.

2. Participant learning, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.

3. Participant behavior, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.

4. Institutional changes, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (*i.e.*, surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Recipient organizations will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3d.4 *Describe your plans for: i.e.* Sustainability, overall program management, staffing, coordination with ECA and PAS or any other requirements, etc.

IV.3e. *Please take the following information into consideration when preparing your budget:*

IV.3e.1 Applicants must submit SF–424A—''Budget Information—Non-Construction Programs'' along with a comprehensive budget for the entire program. Budget requests may not exceed $400,000 for project 1 or $500,000 for project 2. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

IV.3e.2 *Allowable costs for the program include the following:*

(1) Lodging, per diem, and other expenses related to foreign participation in residency programs;

(2) Design and implementation of residency program (including, as appropriate, staff, administrative expenses, educational expenses, supplies, equipment, production costs for filmmaking project, orientation and de-briefing costs, etc.);

(3) International and domestic travel and transportation;

(4) Other costs related to programs complementary to the residency program, including presentations to public schools, panels, etc.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. *Application Deadline and Methods of Submission:*

Application Deadline Date: May 12, 2009.

Reference Number: ECA/PE/C/CU–09–49.

Methods of Submission:

Applications may be submitted in one of two ways:

(1) In hard-copy, via a nationally recognized overnight delivery service (*i.e.*, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

(2) Electronically through *http://www.grants.gov.*

Please Note: ECA strongly encourages organizations interested in applying for this competition to submit printed, hard copy applications as outlined in section IV.3f.1., below rather than submitting electronically through Grants.gov. This recommendation is being made as a result of the anticipated high volume of grant proposals that will be submitted via the Grants.gov Web portal as part of the Recovery Act stimulus package. As stated in these RFGPs, ECA bears no responsibility for data errors resulting from transmission or conversion processes for proposals submitted via Grants.gov.

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1 Submitting Printed Applications

Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but

received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will *not* notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages *may not* be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM''.

The original and nine (9) copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C/CU–09–49, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Applicants submitting hard-copy applications must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal in text (.txt) or Microsoft Word format on a PC-formatted disk. The Bureau will provide these files electronically to the appropriate Public Affairs Section(s) at the U.S. Embassy(ies) for its(their) review.

IV.3f.2 Submitting Electronic Applications

Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the ''Find'' portion of the system.

Please Note: ECA strongly encourages organizations interested in applying for this competition to submit printed, hard copy applications as outlined in section IV.3f.1. above, rather than submitting electronically through *Grants.gov.* This recommendation is being made as a result of the anticipated high volume of grant proposals that will be submitted via the *Grants.gov* Web portal as part of the Recovery Act stimulus package. As stated in these RFGPs, ECA bears no responsibility for data errors resulting from transmission or conversion processes for proposals submitted via *Grants.gov.*

Please follow the instructions available in the ''Get Started'' portion of the site (*http://www.grants.gov/GetStarted*.

Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with *Grants.gov.*

Once registered, the amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your Internet connection. In addition, validation of an electronic submission via Grants.gov can take up to two business days.

Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.

The Grants.gov Web site includes extensive information on all phases/aspects of the Grants.gov process, including an extensive section on frequently asked questions, located under the ''For Applicants'' section of the Web site. ECA strongly recommends that all potential applicants review thoroughly the Grants.gov Web site, well in advance of submitting a proposal through the Grants.gov system. ECA bears no responsibility for data errors resulting from transmission or conversion processes.

Direct all questions regarding Grants.gov registration and submission to: Grants.gov Customer Support.

Contact Center Phone: 800–518–4726.

Business Hours: Monday–Friday, 7 a.m.–9 p.m. Eastern Time.

E-mail: support@grants.gov.

Applicants have until midnight (12 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.

Please refer to the Grants.gov Web site, for definitions of various ''application statuses'' and the difference between a submission receipt and a submission validation. Applicants will receive a validation e-mail from grants.gov upon the successful submission of an application. Again, validation of an electronic submission via Grants.gov can take up to two business days. Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov. ECA will not notify you upon receipt of electronic applications.

It is the responsibility of all applicants submitting proposals via the Grants.gov Web portal to ensure that proposals have been received by Grants.gov in their entirety, and ECA bears no responsibility for data errors resulting from transmission or conversion processes.

Optional—IV.3f. You may also state here any limitations on the number of applications that an applicant may submit and make it clear whether the limitation is on the submitting organization, individual program director or both.

IV.3g. *Intergovernmental Review of Applications:* Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards (cooperative agreements) resides with the Bureau's Grants Officer.

Review Criteria:

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Program planning:* Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

2. *Ability to Achieve Program Objectives:* Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

3. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

4. *Institutional Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals.

5. *Institution's Record/Ability:* Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau awards (grants or cooperative agreements) as determined by Bureau Grants Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

6. *Project Evaluation:* Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives is recommended.

7. *Cost-effectiveness/Cost-sharing:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate.

Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

VI. Award Administration Information

VI.1a. *Award Notices:*

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive a Federal Assistance Award (FAA) from the Bureau's Grants Office. The FAA and the original proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The FAA will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.1b *The following additional requirements apply to this project:*

A critical component of current U.S. government Iran policy is the support for indigenous Iranian voices. The State Department has made the awarding of grants for this purpose a key component of its Iran policy. As a condition of licensing these activities, the Office of Foreign Assets Control (OFAC) has requested the Department of State to follow certain procedures to effectuate the goals of Sections 481(b), 531(a), 571, 582, and 635(b) of the Foreign Assistance Act of 1961 (as amended); 18 U.S.C. §§ 2339A and 2339B; Executive Order 13224; and Homeland Security Presidential Directive 6. These licensing conditions mandate that the Department conduct a vetting of potential Iran grantees and sub-grantees for counter-terrorism purposes. To conduct this vetting the Department will collect information from grantees and sub-grantees regarding the identity and background of their key employees and Boards of Directors.

Note: To assure that planning for the inclusion of Iran complies with requirements, please contact Jill Staggs—Iran Coordinator at 202–203–7500 or *StaggsJJ@state.gov*, for additional information.

All awards made under this competition must be executed according to all relevant U.S. laws and policies regarding assistance to the Palestinian Authority, and to the West Bank and Gaza. Organizations must consult with relevant Public Affairs Offices before entering into any formal arrangements or agreements with Palestinian organizations or institutions.

Note: To assure that planning for the inclusion of the Palestinian Authority complies with requirements, please contact Jill Staggs—at 202–203–7500 or *StaggsJJ@state.gov* for additional information.

Special Provision for Performance in a Designated Combat Area (Currently Iraq and Afghanistan) (December 2008)

All Recipient personnel deploying to areas of combat operations, as designated by the Secretary of Defense (currently Iraq and Afghanistan), under assistance awards over $100,000 or performance over 14 days must register in the Department of Defense maintained Synchronized Pre-deployment and Operational Tracker (SPOT) system. Recipients of Federal assistance awards shall register in SPOT before deployment, or if already in the designated operational area, register upon becoming an employee under the assistance award, and maintain current data in SPOT. Information on how to register in SPOT will be available from your Grants Officer or Grants Officer Representative during the final negotiation and approval stages in the Federal assistance awards process. Recipients of Federal assistance awards are advised that adherence to this policy and procedure will be a requirement of all final Federal assistance awards issued by ECA.

Recipient performance may require the use of armed private security personnel. To the extent that such private security contractors (PSCs) are required, grantees are required to ensure they adhere to Chief of Mission (COM) policies and procedures regarding the operation, oversight, and accountability of PSCs.

VI.2 Administrative and National Policy Requirements:

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''

Office of Management and Budget Circular A–21, ''Cost Principles for Educational Institutions.''

OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments''.

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations

Please reference the following Web sites for additional information:

http://www.whitehouse.gov/omb/grants.

http://fa.statebuy.state.gov.

VI.3. Reporting Requirements: You must provide ECA with a hard copy original plus nine (9) copies of the following reports:

(1) A final program and financial report no more than 90 days after the expiration of the award;

(2) A concise, one-page final program report summarizing program outcomes no more than 90 days after the expiration of the award. This one-page report will be transmitted to OMB, and be made available to the public via OMB's USAspending.gov Web site—as part of ECA's Federal Funding Accountability and Transparency Act (FFATA) reporting requirements.

(3) A SF–PPR, ''Performance Progress Report'' Cover Sheet with all program reports.

Award recipients will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

Program Data Requirements:

Award recipients will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau as required. As a minimum, the data must include the following:

(1) Name, address, contact information, and biographic sketch of all persons who travel internationally on funds provided by the agreement or who benefit from the award funding but do not travel.

(2) Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place. Final schedules for in-country and U.S. activities must be received by the ECA Program Officer at least three work days prior to the official opening of the activity.

VII. Agency Contacts

For questions about this announcement, contact: Susan Cohen, Cultural Programs Division, ECA/PE/C/CU, Room 568, ECA/PE/C/CU–09–49, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, 202–203–7509, fax: 202–203–7525, *CohenSL@state.gov*.

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/PE/C/CU–09–49.

Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice:

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: March 31, 2009.

C. Miller Crouch,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E9–7849 Filed 4–6–09; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 6571]

Culturally Significant Objects Imported for Exhibition Determinations: ''An Antiquity of Imagination: Tullio Lombardo and Venetian High Renaissance Sculpture''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''An Antiquity of Imagination: Tullio Lombardo and Venetian High Renaissance Sculpture,'' 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 National Gallery of Art, Washington, DC, from on or about July 4 until on or about October 31, 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 Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453–8048). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: March 30, 2009.

C. Miller Crouch,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E9–7856 Filed 4–6–09; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[USCG–2007–28535]

Atlantic Sea Island Group LLC, Safe Harbor Energy Liquefied Natural Gas Deepwater Port License Application

AGENCY: Maritime Administration, DOT.

ACTION: Notice of public meeting; reopening of scoping comment period.

SUMMARY: By **Federal Register** notice of January 9, 2009 (74 FR 982–984) the Maritime Administration and the Coast Guard announced the intent to prepare an environmental impact statement (EIS) for the Atlantic Sea Island Group LLC, Safe Harbor Energy liquefied natural gas deepwater port license application located in Federal Waters approximately 13.5 miles south of the City of Long Beach, New York, 19 miles east of Highlands, New Jersey, and 23 miles southeast of the Ports of New York and New Jersey. The proposed project location is in the area between the Ambrose-to-Nantucket and Hudson Canyon-to-Ambrose shipping lanes, located at approximately 40°23′N and 73°36 W, in water depth of between 60 and 70 feet covering an area known as Cholera Bank.

The EIS will be prepared with the New York State Department of Environmental Conservation (NYSDEC) as a cooperating agency in the environmental review with the Coast Guard. The EIS will meet the requirements of both the National Environmental Policy Act (NEPA) and the New York State Environmental Quality Review Act (SEQRA). In addition, the Coast Guard and the Maritime Administration will be working with appropriate state agency representatives from New Jersey to ensure potential impacts and concerns of New Jersey are addressed in the EIS.

The Maritime Administration and Coast Guard held public scoping meetings for the Safe Harbor Energy liquefied natural gas deepwater port license application on January 27, 2009 in Eatontown, New Jersey, as well as on January 29, 2009 in Long Beach, New York. In addition, the scoping comment period was extended an additional 30 days by the Maritime Administration and Coast Guard to accommodate several requests for the scoping comment period extension. The scoping comment period closed on March 11, 2009. However, this notice announces the reopening of the scoping comment period, a public meeting to be held in connection with the EIS, and request for

public comments on the scope of the EIS.

DATES: A public meeting will be held in Rockaway, New York on April 19, 2009. The public meeting will be held from 4 p.m. to 6 p.m. and will be preceded by an open house from 2 p.m. to 3:30 p.m. The public meeting may end later than the stated time, depending on the number of persons wishing to speak.

Material submitted in response to the request for comments on the license application must reach the Docket Management Facility by May 3, 2009.

ADDRESSES: The open house and public meeting will be held at: P.S. 114 Belle Harbor School, 400 Beach 135th Street, Rockaway, NY 11694; 718–634–3382.

The license application, comments and associated documentation is available for viewing at the Federal Docket Management System (FDMS) Web site: *http://www.regulations.gov* under docket number USCG–2007–28535.

Docket submissions for USCG–2007–28535 should be addressed to: Department of Transportation, Docket Management Facility, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

The Docket Management Facility accepts hand-delivered submissions and makes docket contents available for public inspection and copying at this address between 9 a.m. and 5 p.m., Monday through Friday, except for Federal holidays. The facility phone number is 202–366–9329, the fax number is 202–493–2251, and the Web site for electronic submissions or for electronic access to docket contents is: *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mark Prescott, U.S. Coast Guard, telephone: 202–372–1440, e-mail: *Mark.A.Prescott@uscg.mil;* or LT Hannah Kawamoto, U.S. Coast Guard, telephone: 202–372–1438, e-mail: *Hannah.K.Kawamoto@uscg.mil;* or Yvette Fields, U.S. Maritime Administration, telephone: 202–366–0926, e-mail: *Yvette.Fields@dot.gov.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–493–0402.

SUPPLEMENTAL INFORMATION:

Public Meeting and Open House

We invite you to learn about the proposed deepwater port at an informational open house and to comment at a public meeting on environmental issues related to the proposed deepwater port. Your comments will help us identify and refine the scope of the environmental issues to be addressed in the EIS.

The purpose of this open house and public meeting is to provide the public with factual information on the project and the deepwater port license application process and to give the public an opportunity to provide comments. Videography and photography will be allowed from designated areas inside the public meeting area. Items including promotional posters, placards, or banners will not be permitted inside the public meeting area.

Speaker registrations will be available at the door. Speakers at the public scoping meeting will be recognized in the following order: elected officials, public agencies, individuals or groups in the sign-up order and anyone else who wishes to speak. Speakers may be asked to limit their oral comments to three (3) minutes in order to afford everyone an opportunity to speak and if possible the meeting time may be extended to accommodate additional comments. Speakers must identify themselves and any organization represented, by name. Remarks will be recorded or transcribed for inclusion in the public docket.

You may submit written material at the public meeting, either in place of or in addition to speaking. Written material must include your name and address and will be included in the public docket.

Public docket materials will be made available to the public on the Federal Docket Management System (FDMS) Web site (see Request for Comments).

Our public meeting locations are wheelchair-accessible. If you plan to attend the open house or public meeting and need special assistance such as sign language interpretation or other reasonable accommodation, please notify the Coast Guard (see **FOR FURTHER INFORMATION CONTACT**) at least 3 business days in advance. Include your contact information as well as information about your specific needs.

Request for Comments

We request public comments or other relevant information on environmental issues related to the proposed deepwater port license application. The public hearing is not the only opportunity you have to comment. In addition to or in place of attending a hearing, you can submit comments to the Docket Management Facility or to the FDMS Web site during the public comment period (see **DATES**). We will consider all comments and material received during the comment period. All previous comments submitted to the docket do not need to be resubmitted.

Submissions should include:

- Docket number USCG–2007–28535.
- Your name and address.

Submit comments or material using only one of the following methods:

- Electronic submission to FDMS: *http://www.regulations.gov*
- Fax, mail, or hand delivery to the Docket Management Facility (see **ADDRESSES**). Faxed or hand delivered submissions must be unbound, no larger than 8½ by 11 inches, and suitable for copying and electronic scanning. If you mail your submission and want to know when it reaches the Facility, include a stamped, self-addressed postcard or envelope.

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the FDMS Web site (*http://www.regulations.gov*) and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy and Use Notice that is available on the FDMS Web site, and the Department of Transportation Privacy Act Notice that appeared in the **Federal Register** on April 11, 2000 (65 FR 19477), see PRIVACY ACT. You may view docket submissions at the Docket Management Facility or electronically on the FDMS Web site (see **ADDRESSES**).

Background

Information about deepwater ports, the statutes, and regulations governing their licensing and the receipt of the current application for the proposed Safe Harbor Energy liquefied natural gas (LNG) deepwater port appears in the **Federal Register** on August 27, 2007 (72 FR 49041), which can be accessed at: *edocket.access.gpo.gov/2007/pdf/E7–16857.pdf.* The ''Summary of the Application'' from that publication is reprinted below for your convenience.

Consideration of a deepwater port license application includes review of the proposed deepwater port's natural and human environmental impacts. The Coast Guard is the lead agency for determining the scope of this review and in this case the Coast Guard has determined that this review must include preparation of an EIS. This notice is required by 40 CFR 1501.7 and briefly describes the proposed action and possible alternatives and our proposed scoping process.

The New York State Department of Environmental Conservation has determined that the proposed port and subsea pipeline may result in significant adverse environmental impacts, as defined under the State Environmental

Quality Review Act (SEQRA) and that compliance with SEQRA requires preparation of an Environmental Impact Statement (EIS). Because of the many similarities in requirements, the Coast Guard, Maritime Administration and New York State Department of Environmental Conservation (NYSDEC) have agreed to cooperate in preparing a single document that satisfies both the NEPA and SEQRA.

The EIS will be consistent with the Deepwater Port Act (DWPA) of 1974, as amended (33 U.S.C. 1501–1524); the NEPA (Section 102[2][c]), as implemented by Council on Environmental Quality regulations (40 CFR 1500–1508); and SEQRA (6 NYCRR Part 617). The environmental review and analysis will be completed according to the timeline prescribed by the DWPA, which requires a decision within 365 days of the publication of the Notice of Application. The period to complete all NEPA/SEQRA documents is approximately 240 days. This timeline will govern the activities related to the processing of the license application and the completion of all NEPA and SEQRA related actions needed to support the Maritime Administrator's decision regarding whether to approve, approve with conditions, or disapprove the proposed license.

This notice provides compliance with the requirements of the NEPA regulations and also serves as the notice of a scoping session under SEQRA. It briefly describes the proposed action, possible alternatives, and our proposed scoping process. Address any questions about the proposed action, the scoping process, or the EIS to the Coast Guard (see **FOR FURTHER INFORMATION CONTACT**).

Proposed Action and Alternatives

The proposed action requiring environmental review is the Federal licensing of the proposed deepwater port described in ''Summary of the Application'' below. The alternatives to licensing the proposed port are: (1) Licensing with conditions (including conditions designed to mitigate environmental impact), or (2) denying the application, which for purposes of environmental review is the ''no-action'' alternative.

Scoping Process

Public scoping is an early and open process for identifying and determining the scope of issues to be addressed in the EIS. Scoping begins with this notice, continues through the public comment period (see **DATES**), and ends when the Coast Guard, Maritime Administration and NYSDEC have completed the following actions:

- Invites the participation of Federal, State, and local agencies, any affected Indian tribe, the applicant, and other interested persons;
- Determines the actions, alternatives, and impacts described in 40 CFR 1508.25;
- Identifies and eliminates, from detailed study, those issues that are not significant or that have been covered elsewhere;
- Allocates responsibility for preparing EIS components;
- Indicates any related environmental assessments or environmental impact statements that are not part of the EIS;
- Identifies other relevant environmental review and consultation requirements;
- Indicates the relationship between timing of the environmental review and other aspects of the application process; and
- At its discretion, exercises the options for scoping provided in 40 CFR 1501.7(b).

Once the scoping process is complete, the Coast Guard, Maritime Administration, and NYSDEC will prepare a draft EIS, and we will publish a **Federal Register** notice announcing its public availability. (If you want that notice to be sent to you, please contact the Coast Guard (see **FOR FURTHER INFORMATION CONTACT**). You will have an opportunity to review and comment on the draft EIS. The Coast Guard, Maritime Administration, and NYSDEC will consider those comments and then prepare the final EIS. As with the draft EIS, we will announce the availability of the final EIS and once again give you an opportunity for review and comment.

Availability of EIS

A notice of availability (NOA) will be published in the **Federal Register** when the DEIS is available and NYSDEC will publish a notice of completion of Draft EIS, prepared in accordance with SEQRA § 617.12, in NYSDEC's online Environmental Notice Bulletin (ENB). The ENB is accessible on NYSDEC's Web site at: *dec.state.ny.us.* The DEIS in hardcopy or electronic format will be distributed to agencies, local public libraries and interested parties that have requested copies. Anyone who wishes to comment on the draft report will be provided with an opportunity to review the DEIS and to offer comments on the environmental effects of the proposed project. Comments received during the DEIS review period will be available on the public docket and responded to in the FEIS. A Notice of Availability of the FEIS will also be published in the **Federal Register**, and NYSDEC will publish a notice of completion of the final EIS and file copies of the final EIS in accordance with SEQRA § 617.12. Additional public meetings will be held after the draft and final documents are published.

Summary of the Application

Atlantic Sea Island Group LLC (ASIG), proposes to own, construct, and operate a deepwater port, named Safe Harbor Energy, in the Federal waters of the Atlantic Outer Continental Shelf in the area known as the New York Bight region in MMS lease area NK18–12 block 6655. The proposed location is approximately 13.5 miles south of the City of Long Beach, New York, 19 miles east of Highlands, New Jersey, and 23 miles southeast of the Ports of New York and New Jersey. The proposed project location is in the area between the Ambrose-to-Nantucket and Hudson Canyon-to-Ambrose shipping lanes, located at approximately 40°23′N and 73°36W, in water depth of between 60 and 70 feet covering an area known as Cholera Bank.

The deepwater port, Safe Harbor Energy, consists of three components: An island to be constructed of natural sand, gravel, and rock materials surrounded by armored breakwaters, consisting of prefabricated caissons, armor units, and rock; an LNG receiving, storage, and regasification facility; and a subsea pipeline that would transport the natural gas to an offshore connection with the Transcontinental Gas Pipeline Corporation's pipeline system. The pipeline would consist of two parallel 36-inch diameter pipe segments extending 12.8 miles from the island. Safe Harbor Energy will include berthing and offloading space for two conventional LNG vessels with capacity of 70,000 m^3 to 270,000 m^3. Additionally, it will accommodate support vessels including docking/firefighting tugs and crew support launches. The storage portion would include four (4) 180,000 m^3 full-containment storage tanks. The regasification equipment would be an ambient air heat exchange type. Safe Harbor Energy would have an average throughput capacity of approximately 1.15 billion cubic standard feet per day (bscfd).

A shore based facility would be used to facilitate movement of personnel, equipment, supplies, and disposable materials between the port and shore.

Construction of the deepwater port would be expected to take approximately five (5) years; with startup of commercial operations

following construction, should a license be issued. The deepwater port would be designed, constructed, and operated in accordance with applicable codes and standards and would have an expected operating life of approximately 25 years.

Privacy Act

The electronic form of all comments received into the Federal Docket Management System can be searched by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). The DOT Privacy Act Statement can be viewed in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, pages 19477–78) or you may visit *http://www.regulations.gov*.

(Authority 49 CFR 1.66)

By Order of the Maritime Administrator.

Murray A. Bloom,

Acting Secretary, Maritime Administration.

[FR Doc. E9–7954 Filed 4–6–09; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Office of the Secretary

List of Countries Requiring Cooperation With an International Boycott

In order to comply with the mandate of section 999(a)(3) of the Internal Revenue Code of 1986, the Department of the Treasury is publishing a current list of countries which require or may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

On the basis of the best information currently available to the Department of the Treasury, the following countries require or may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

Kuwait
Lebanon
Libya
Qatar
Saudi Arabia
Syria
United Arab Emirates
Yemen, Republic of

Iraq is not included in this list, but its status with respect to future lists remains under review by the Department of the Treasury.

Date: March 27, 2009.

John L. Harrington,

International Tax Counsel (Tax Policy).

[FR Doc. E9–7480 Filed 4–6–09; 8:45 am]

BILLING CODE 4810–25–M

Reader Aids

Federal Register

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Tuesday, April 7, 2009

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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/.**

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